

# DISTRICT OF COLUMBIA OFFICIAL CODE

*2001 Edition*

## TITLE 47

Taxation, Licensing, Permits, Assessments,  
and Fees

(Chapters 19 to End)



40<sup>th</sup> ANNIVERSARY  
of  
HOME RULE



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# DISTRICT OF COLUMBIA

## *OFFICIAL CODE*

**2001 EDITION**

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Containing the Laws, general and permanent in their nature,  
relating to or in force in the District of Columbia (Except such  
laws as are of application in the General and Permanent  
Laws of the United States) as of September 13, 2012.

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VOLUME 21A

Title 47

Taxation, Licensing, Permits, Assessments, and Fees  
Chapters 19 to End



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# Foreword to 2013 Commemorative Set

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LexisNexis presents the 2013 republication of the District of Columbia Official Code, 2001 Edition to the D.C. bench and bar and to the citizens of the District of Columbia in a sincere belief that it will prove a material contribution to the orderly and efficient conduct of the government of the District and to the practice of law. LexisNexis is proud to help commemorate the 40th anniversary of Home Rule for the District of Columbia.

LexisNexis continues its tradition of excellence with its District of Columbia Official Code, 2001 Edition. This 2013 Volume 21A replaces any existing Volume 21A of the 2001 Supplement, both of which may now be discarded, recycled, or retained for historical reference. Future supplements will be keyed to this 2013 Volume and not to any of its predecessors.

The District of Columbia Official Code, 2001 Edition, represents the eighth compilation of the laws of the District of Columbia and reflects an extensive renumbering of the 1981 Edition. Users should consult the historical citations at the end of each statute, and corresponding amendment notes, as guides to legislative currency. Research features such as case annotations, section references, effect of legislation notes, editor's notes, and the comprehensive index have been prepared by LexisNexis. Your set is kept up to date through regular supplementation, free access to the on-line Official Code at <http://www.lexisnexis.com/hottopics/dccode> and the periodic replacement of volumes. All case citations are Shepardized for accuracy and continued relevance. LexisNexis also publishes a District of Columbia Advance Legislative Service (ALS). The ALS gives you the latest session laws as they are passed, along with tables showing you which sections of the Code are affected.

We actively solicit your comments and suggestions. If you have questions or comments about the statutes, or if you have suggestions regarding index improvements, please write to us or call us toll-free at 1-800-833-9844; fax us toll free at 1-800-643-1280; E-mail us at [customersupport@bender.com](mailto:customersupport@bender.com); or visit our website at <http://www.lexisnexis.com>. By providing us with your informed comments, you will be assured of having a working tool which increases in value each year.

LEXISNEXIS

June 2013





## PREFACE TO THE 2001 EDITION

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The 2001 Edition of the District of Columbia Official Code marks the eighth time that a compilation of the laws of the District of Columbia has been published by, or under the authority of, the government of the District of Columbia or that of the United States. The District of Columbia Code was first published in 1929; eleven years later, the Second Edition (1940) was published; another eleven years later, the Third Edition (1951); ten years later, the Fourth Edition (1961); six years later, the Fifth Edition (1967); another six years later, the Sixth Edition (1973); and 8 years later, the Seventh Edition (1981) was published. The time between the publication of the Seventh Edition and this Eighth Edition represents the longest period, by almost a decade, that the District of Columbia Code has gone unrevised in its 72 year history.

The District's Charter, which in 1973, established the current tripartite government of the District of Columbia, makes it incumbent upon the legislative branch to publish and codify every act of the Council, as the Council directs, upon becoming law, so that the residents of the District may have ready access to the laws by which they are governed. In 1973, however, the framers of the District's constitution could not have foreseen the incredible technological advances that would occur in the next 25 years nor the impact they have on the Code.

With the close of the 20th Century the world has witnessed the triumph of the Information Age, the rise of the World Wide Web, and the explosion of word processing and data storage technology. These phenomena have helped make the reproduction of legal text and data a fast, easy, and inexpensive enterprise, giving rise to a plethora of publishing mediums, and have made it a relatively simple task to reproduce existing legal text, including the District of Columbia Code. The rapid rise of the Computer Age has allowed virtually anyone with an ordinary personal computer to reproduce and compile the laws of the District of Columbia.

The laws of the District, however, are fluid, not stagnant, as they are amended several times each year. The quality and accuracy of publications not directed by the Council are beyond its control. The Council can only warrant the Code for which it has authorized publication. Therefore, in order to ensure that the residents of the District may distinguish between the compilation of District laws as produced under the direction of the elected officials of the District of Columbia and those of other persons, we have added the word "Official" to the title of the Code. Also to ensure that the Council never loses the right to publish its own laws, the government of the District of Columbia has retained the copyright to the District of Columbia Official Code.

The codified laws of the District of Columbia are created as a result of legislative action on the part of 13 individuals elected by the residents of the

District of Columbia to enact the laws that govern the District, and by the Congress. Once the legislative process is complete, the Council, through its delegation of authority to its Office of the General Counsel, codifies the laws in the form of this Code. In the process of codification, the Office of the General Counsel interprets any discrepancies in the drafting of the laws using commonly recognized rules of statutory construction. No other entity is authorized by law to make these determinations. As set forth by federal law and recognized by the Courts of the District of Columbia, this Code establishes *prima facie* evidence of the laws in force in the District of Columbia.<sup>1</sup> It is this continuity of authority, from enactment to codification to judicial review that gives this Code its authenticity and officiality as the content of the laws of the District of Columbia.

The 2001 Edition represents a recodification of the 1981 Edition in that it contains a reorganization of the presentation of the laws, inclusion of some previously omitted legal provisions, and the omission of non-substantive extraneous provisions. The theory behind the recodification is to purify the organization of the Code which over many decades has seen the haphazard mixing of original (“organic”) provisions of laws throughout the Code. In the 2001 Edition, we have established a system of codification that follows the legislative drafting principals established over many years in the Council’s Office of the General Counsel.

The recodification is not an overhaul of the Code. Although a cleanup of the antiquated, repealed and omitted provisions is long overdue, it is not the province of the Office of the General Counsel to determine which laws should be expunged as obsolete. Such decisions should be left to a working group commissioned by the Council to recommend revisions to the Code. The Office of the General Counsel has simply separated the organic laws into discrete divisions and topical categories. As much as is possible, we have followed a rule that requires that all organic law remain intact: closely following the layout of the originating act. We have retained notes to repealed sections to aid in legal research and preserved the numbering style that was first introduced in the Second Edition. Thanks to the resourcefulness of the publisher and the Council’s Office of the General Counsel staff, we have corrected provisions of law erroneously added to, or deleted from, prior editions.

The Code is organized into eight Divisions of practical law: government organization; judicial organization; decedent estates; criminal law; business law; education; property; and general laws. Each division is subdivided by subject matter called **Titles**, organic laws, called **Chapters** and **Subchapters**, and finally, individual **Sections** representing the individual sections of organic law. Occasionally, **Subtitles** are used to organize chapters of organic law, **Units** to organize subchapters, and **Parts** and **Subparts** to organize the additional divisions within the organic law. One important change that the user will notice, and hopefully appreciate, is that the District’s Charter, the Home Rule Act, is codified in its entirety in one location so that the

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1. See 1 U.S.C. § 204(b) (1994); *Sheetz v. District of Columbia*, 629 A.2d 515, 519 (D.C. 1993).

framework of the current District government can be readily found. We hope that the organization of the 2001 Edition of the District of Columbia Official Code will serve as a foundation for further refinement by future law revision commissions or their equivalent.

The 2001 Edition has been prepared under the supervision of Benjamin. F. Bryant, Jr., Codification Counsel, Office of the General Counsel, Council of the District of Columbia.

\_\_\_\_\_/s/\_\_\_\_\_

Linda W. Cropp

Chairman

Council of the District of Columbia

\_\_\_\_\_/s/\_\_\_\_\_

Charlotte Brookins-Hudson

General Counsel

Council of the District of Columbia





## **USER'S GUIDE**

In order to assist both the legal profession and the layman in obtaining the maximum benefit from the District of Columbia Official Code, a User's Guide has been included in Volume 1 of the Code. This guide contains comments and information on the many features found within the District of Columbia Official Code intended to increase the usefulness of the Code to the user.



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7. Human Health Care and Safety.
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\*Title has been enacted as law.

## Title

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\*Title has been enacted as law.



## **CITE THIS BOOK**

Thus: D.C. Official Code, § \_\_\_\_\_ (2001 Ed.)



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Repealed.

(Feb. 24, 1987, D.C. Law 6-168, § 24, 33 DCR 7008.)

**Prior Codifications.** — 1981 Ed., §§ 47-1901 to 47-1907.

**Legislative history of Law 6-168.** — Law 6-168, the "Inheritance and Estate Tax Revision Act of 1986," was introduced in Council and assigned Bill No. 6-372, which was referred to the Committee on Finance and Revenue. The

Bill was adopted on first and second readings on September 23, 1986 and October 7, 1986, respectively. Signed by the Mayor on October 27, 1986, it was assigned Act No. 6-217 and transmitted to both Houses of Congress for its review.

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Repealed.

(Feb. 24, 1987, D.C. Law 6-168, § 24, 33 DCR 7008.)

**Prior Codifications.** — 1981 Ed., §§ 47-1911 to 47-1918.

**Legislative history of Law 6-168.** — For

legislative history of D.C. Law 6-168, see Historical and Statutory Notes following § 47-1901.

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Repealed.

(Feb. 24, 1987, D.C. Law 6-168, § 24, 33 DCR 7008.)

**Legislative history of Law 6-168.** — For legislative history of D.C. Law 6-168, see Historical and Statutory Notes following § 47-1901.



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§ 47-2001. Definitions.

(a) [Repealed].

(a-1) “Additional charges” means the excess of the gross receipts from the sale of or charges for any room or accommodations received by a room remarketer over the net charges.

(a-2) “Armored car service” means picking up and delivering money, receipts, or other valuable items with personnel and equipment to protect the properties while in transit. The term “armored car service” shall not include coin rolling or change-room services; provided, that these charges are separately stated.

(b) “Business” includes any activity engaged in by any person or caused to be engaged in by him with the object of gain, benefit, or advantage, either direct or indirect.

(b-1) “Cigar” means any roll for smoking, other than a cigarette as defined in § 47-2401(1) [now § 47-2401(1A)], made wholly or in part of tobacco, and where the wrapper or cover of the roll is made of natural leaf tobacco or any substance containing tobacco.

(c) “Collector” means the Collector of Taxes of the District or his duly authorized representatives.

(d) “Mayor” means the Mayor of the District of Columbia or his duly authorized representative or representatives.

(e) “District” means the District of Columbia.



(f) "Engaging in business" means commencing, conducting, or continuing in business, as well as liquidating a business when the liquidator thereof holds himself out to the public as conducting such a business.

(g) "Food or drink" means items sold for human or animal ingestion that are consumed for their taste or nutritional value. These items include, but are not limited to, baby foods and formula; baked goods; baking soda, baking powder, and baking mixes; bouillon; cereal and cereal products; cocoa and cocoa products; coffee and coffee substitutes; condiments; cooking wines; cough drops; edible cake decorations; egg and egg products; fish and fish products, including shellfish; fruit, fruit products, and fruit juices; gelatin; honey; ice cream; meat and meat products; milk and milk products; nondairy creamers; oleomargarine; pasta and pasta products; poultry and poultry products; powdered drinks, including health and diet drinks; salad dressings; salt and salt substitutes; sauces and gravies; snack foods; soups; spices and herbs; sugar and sugar products; syrup and syrup substitutes; tea and tea substitutes; vegetables, vegetable products, and vegetable juices; vitamins; water; yogurt; pet foods; flavored extracts; ice; and any combination of these items. The term "food or drink" does not include spirituous or malt liquors, beers, and wines; drugs, medicines or pharmaceuticals; chewing tobacco; toothpaste; or mouthwash.

(g-1) "Food or drink prepared for immediate consumption" includes, but is not limited to, food or drink in a heated state (except heated baked goods whose heated state is solely a result of baking); sandwiches suitable for immediate consumption; prepared salads; salad bars; party platters; cold drinks dispensed in or with a cup or glass either by a retailer or on a self-service basis by the consumer; frozen yogurt, ice cream, or ice milk sold in quantities of less than one pint; and all food or drink, served by, or sold in or by, restaurants, lunch counters, cafeterias, hotels, caterers, boarding houses, carryout shops or like places of business.

(g-2) Repealed.

(h) "Gross receipts" means the total amount of the sales prices of the retail sales of vendors, valued in money, whether received in money or otherwise.

(h-1) "Net charges" means the gross receipts from the sale of or charges for any room or accommodations received from a room remarketer by the operator of a hotel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration.

(h-2) "Nexus-vendor" means a vendor that has a physical presence within the District of Columbia, such as property or retail outlets, selling via the internet property or rendering services to a purchaser in the District.

(i) "Person" includes an individual, partnership, society, club, association, joint-stock company, corporation, estate, receiver, trustee, assignee, or referee, and any other person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise, and any combination of individuals acting as a unit.

(i-1) "Premium cigar" means any cigar with a retail cost of \$ 2.00 or more, or packaged units of cigars averaging \$ 2.00 or more per packaged cigar at retail.

(i-2)(1) "Private investigation service" means an investigation being conducted for purposes of providing information related to:

(A) A crime or wrong committed, assumed to have been committed, or threatened to be committed;

(B) The identity, habits, conduct, movement, location, affiliations, associations, transactions, reputation, or character of any person;

(C) The credibility of a witness or of any other individual;

(D) The location of a missing individual;

(E) The location or recovery of lost or stolen property;

(F) The origin, cause of, or responsibility for a fire, accident, damage to or loss of property, or injury to an individual, regardless of who conducts the investigation;

(G) The affiliation, connection, or relation of any person with an organization or other person;

(H) The activities, conduct, efficiency, loyalty, or honesty of any employee, agent, contractor, or subcontractor;

(I) The financial standing, creditworthiness, or financial responsibility of any person;

(J) Securing evidence for use before any investigating committee, board of award, or board of arbitration, or for use in a trial of any civil or criminal cause;

(K) Providing uniformed or non-uniformed personal protection;

(L) Conducting polygraph testing;

(M) Conducting background checks on prospective employees or tenants; or

(N) Conducting background checks on individuals by or at the request of an insurance company for workers' compensation purposes.

(2) The term "private investigation service" shall not include private-process service, unless the service goes beyond service of process to a missing person investigation.

(j) "Purchaser" includes a person who purchases property or to whom is rendered services, receipts from which are taxable under this chapter.

(k) "Purchaser's certificate" means a certificate signed by a purchaser and in such form as the Mayor shall prescribe, stating the purpose to which the purchaser intends to put the subject of the sale, or the status or character of the purchaser.

(l) "Retailer" includes:

(1) Every person engaged in the business of making sales at retail;

(2) Every person engaged in the business of making retail sales at auction of tangible personal property owned by the person or others; and

(3) Every person engaged in the business of making sales for storage, use, or other consumption, or in the business of making sales at auction of tangible personal property owned by the person or others for storage, use, or other consumption.

(m) "Retail establishment" means any premises in which the business of selling tangible personal property is conducted or in or from which any retail sales are made.



(n)(1) "Retail sale" and "sale at retail" mean the sale in any quantity or quantities of any tangible personal property or service, including any such sales effected via the internet by a nexus-vendor, taxable under the terms of this chapter. These terms mean all sales of tangible personal property to any person for any purpose other than those in which the purpose of the purchaser is to resell the property so transferred in the form in which the same is, or is to be, received by him, or to use or incorporate the property so transferred as a material or part of other tangible personal property to be produced for sale by manufacturing, assembling, processing, or refining. For the purpose of the tax imposed by this chapter, these terms shall include, but not be limited to, the following:

(A)(i) Sales of food or drink prepared for immediate consumption as defined in subsection (g-1) of this section; and

(ii) Sales of food or drink when sold from vending machines;

(iii) Repealed;

(iv) Sales of soft drinks.

(B) Any production, fabrication, or printing of tangible personal property on special order for a consideration;

(C)(i) The sale or charge, including net charges and additional charges, for any room or rooms, lodgings, or accommodations furnished to transients by any hotel, room remarketer, inn, tourist camp, tourist cabin, or any other place in which rooms lodgings, or accommodations are regularly furnished to transients for consideration. For the purposes of this subparagraph, the term "transient" means any person who occupies, or has the right to occupy, any room or rooms, lodgings, or accommodations for a period of 90 days or less during any one continuous stay.

(ii) For the purposes of this chapter the term:

(I) "Additional charges" means the excess of the sale or charges received from the transient by a room remarketer over the net sale or net charges.

(II) "Net sale" or "net charges" means the gross receipts from the sale of or charges for any room or accommodations received by a retailer from a room remarketer.

(III) "Room remarketer" means any person, other than the retailer, having any right, access, ability, or authority, through an Internet transaction or any other means whatsoever, to offer, reserve, book, arrange for, remarket, distribute, broker, resell, or facilitate the transfer of rooms the occupancy of which is subject to tax under this chapter;

(D) The sale of natural or artificial gas, oil, electricity, solid fuel, or steam;

(E) The sale of material used in the construction, and of materials used in the repair or alteration, of real property, which materials, upon completion of such construction, alterations, or repairs, become real property, regardless of whether or not such real property is to be sold or resold, however, this section shall not apply to the sale of material for the purpose of subsequently transporting the property outside the District for use solely outside the District;

(F) The sale or charges for possession or use of any article of tangible personal property granted under a lease or contract, regardless of the length of time of such lease or contract or whether such lease or contract is oral or written; in such event, for the purposes of this chapter, such lease or contract shall be considered the sale of such article and the tax shall be computed and paid by the vendor upon the rental paid; provided, however, that the gross proceeds from the rental of films, records, or any type of sound transcribing to theaters and radio and television broadcasting stations shall not be considered a retail sale;

(G)(i) The sale of or charges to subscribers for local telephone service. The inclusion of such sales and charges in the definition of the terms "retail sale" and "sale at retail" shall not authorize any tax to be imposed under this chapter on so much of any amount paid for the installation of any instrument, wire, pole, switchboard, apparatus, or equipment as is properly attributable to such installation.

(ii) The term "local telephone service" means:

(I) The access to a local telephone system, and the privilege of telephonic quality communication with substantially all persons having telephone or radio telephone stations constituting a part of such local telephone system; and

(II) Any facility or service provided in connection with a service described in clause (I) of this sub-subparagraph. The term "local telephone service" does not include any service which is a "toll telephone service" or a "private communication service" as defined in sub-subparagraphs (iii) and (iv) of this subparagraph.

(iii) The term "toll telephone service" means:

(I) A telephonic quality communication for which there is a toll charge which varies in amount with the distance and elapsed transmission time of each individual communication and the charge is paid within the United States; and

(II) A service which entitles the subscriber, upon payment of a periodic charge (determined as a flat amount or upon the basis of total elapsed transmission time), to the privilege of an unlimited number of telephonic communications to or from all or a substantial portion of the persons having telephone or radio telephone stations in a specified area which is outside the local telephone system area in which the station provided with this service is located.

(iv) The term "private communication service" means:

(I) The communication service furnished to a subscriber which entitles the subscriber to exclusive or priority use of any communication channel or groups of channels, or to the use of an intercommunication system for the subscriber's stations, regardless of whether such channel, or groups of channels, or intercommunication system may be connected through switching with a service described in sub-subparagraph (ii) or (iii) of this subparagraph;

(II) Switching capacity, extension lines and stations, or other associated services which are provided in connection with, and are necessary or unique to the use of, channels, or systems described in clause (I) of this sub-subparagraph; and



(III) The channel mileage which connects a telephone station located outside a local telephone system area with a central office in such local telephone system, except that such term does not include any communication service unless a separate charge is made for such service;

(H) The sale of or charges for admission to public events, except live performances of ballet, dance, or choral performances, concerts (instrumental and vocal), plays (with and without music), operas and readings and exhibitions of paintings, sculpture, photography, graphic and craft arts, but including movies, circuses, burlesque shows, sporting events, and performances or exhibitions of any other type or nature; provided, that any casual or isolated sale of or charge for admission made by a semipublic institution not regularly engaged in asking such sales or charges shall not be considered a retail sale or sale at retail;

(I) The sale of or charges for the service of repairing, altering, mending, or fitting tangible personal property, or applying or installing tangible personal property as a repair or replacement part of other tangible personal property, whether or not such service is performed by other means of coin-operated equipment or by any other means, and whether or not any tangible personal property is transferred in conjunction with such service;

(J) The sale of or charges for copying, photocopying, reproducing, duplicating, addressing, and mailing services and for public stenographic services;

(K) The sale of or charges for the service of laundering, dry cleaning, or pressing of any kind of tangible personal property, except when such service is performed by means of self-service, coin-operated equipment, and the rental of textiles to commercial users when the essential part of the rental includes the recurring service of laundering or cleaning thereof;

(L) The sale of or charge for the service of parking, storing, or keeping motor vehicles or trailers, except that:

(i) Where a sale or charge for the service described in this subparagraph is made to a District resident who is a tenant in an apartment house or the owner of a condominium unit or a cooperative unit in which he or she resides, and the motor vehicle or trailer of the tenant or owner is parked, stored or kept on the same premises on which the tenant or owner has his or her place of residence, except as otherwise provided in this paragraph the sale or charge is exempt from the tax imposed by this subparagraph. The exemption shall not extend to a tenant or owner whose motor vehicle or trailer is used for commercial purposes or whose occupancy of the building is for commercial purposes; or

(ii)(I) Where the sale or charge for the service is made to a District resident who possesses and shows to those providing the service a parking sales tax exemption card issued and signed by the Mayor or his or her duly authorized representative pursuant to sub-subparagraph (iii) of this subparagraph, the sale or charge is exempt from the tax imposed by this paragraph;

(II) This exemption shall extend only to those District residents using the service for the purpose of keeping their vehicles or trailers near their place of residence and shall not extend to a resident whose motor vehicle or

trailer is used for commercial purposes, as ascertained by the Mayor or his or her duly authorized representative;

(iii) Upon application by a District resident, the Mayor shall issue to him or her a parking sales tax exemption card; provided, that the resident:

(I) Possesses a District motor vehicle or trailer registration certificate and identification tag for the motor vehicle or trailer to be parked, if so required by § 50-1501.02(a);

(II) Has registered the vehicle or trailer to a residential address in the District, if a registration certificate is required by § 50-1501.02(a), which address is located within one-half mile of the address of the business or operation providing the service; and

(III) Provides the Mayor the name and address of the business or operation to provide the service;

(iv) The parking sales tax exemption card shall state the name and address of the person to whom it is issued, the name and address of the business or operation to provide the service, and any other information, including a photograph, deemed necessary by the Mayor;

(iv-I)(I) Where the sale or charge for service is made by a valet parking service business, the sale or charge for service shall be exempt from the tax imposed by this sub-subparagraph.

(II) For the purposes of this sub-subparagraph, the term “valet parking service business” means a corporation, partnership, business entity, or proprietor who takes temporary control of a motor vehicle of a person attending any restaurant, business, activity, or event to park, store, or retrieve the vehicle. The term “valet parking service business” shall not include a garage, parking lot, or parking facility that provides parking services by parking lot attendants.

(v) For the purpose of this paragraph, the term:

(I) “Motor vehicle” means any vehicle propelled by an internal-combustion engine or by electricity or steam, except road rollers, farm tractors, and vehicles propelled only upon stationary rails or tracks; and

(II) “Trailer” means a vehicle without motor power intended or used for carrying property or persons and drawn or intended to be drawn by a motor vehicle, whether such vehicle without motor power carries the weight of the property or persons wholly on its own structure or whether a part of such weight rests upon or is carried by a motor vehicle;

(M) The sale of or charges for the service of real property maintenance and landscaping.

(i)(I) For the purposes of this paragraph, the term “real property maintenance” means any activity that keeps the land or the premises of a building clean, orderly, and functional, including the performance of minor adjustments, maintenance, or repairs which include: floor, wall, and ceiling cleaning; pest control; window cleaning; servicing inground and in building swimming pools; exterior building cleaning; parking lot, garage, and recreation area maintenance; exterior and interior trash removal; restroom cleaning and stocking; lighting maintenance; chimney and duct cleaning; and ground maintenance; but does not include; painting, wallpapering, or other services



performed as part of construction or major repairs; or services performed under an employee-employer relationship.

(II) The term “real property maintenance” shall not include the exterior or interior trash removal of recyclable material. For the purposes of this sub-sub-subparagraph, the term “recyclable material” means material that would otherwise become municipal solid waste and is shown by the provider of the interior or exterior trash removal that the material has been collected, separated, or processed to be returned into commerce as a raw material or product, or has been sold to a company in the business of separating or processing recyclable materials.

(ii) For the purposes of this paragraph, the term “landscaping” means the activity of arranging or modifying areas of land and natural scenery for an improved or aesthetic effect; the addition, removal, or arrangement of natural forms, features, and plantings; the addition, removal, or modification of retaining walls, ponds, sprinkler systems, or other landscape construction services; and other services provided by landscape designers or landscape architects such as consultation, research, preparation of general or specific design or detail plans, studies, specifications or supervision, or any other professional services or functions associated with landscaping;

(N) The sale of or charges for data processing and information services.

(i) For the purposes of this paragraph, the term “data processing service” means the processing of information for the compilation and production of records of transactions; the maintenance, input, and retrieval of information; the provision of direct access to computer equipment to process, examine, or acquire information stored in or accessible to the computer equipment; the specification of computer hardware configurations, the evaluation of technical processing characteristics, computer programming or software, provided in conjunction with and to support the sale, lease, operation, or application of computer equipment or systems; word processing, payroll and business accounting, and computerized data and information storage and manipulation; the input of inventory control data for a company; the maintenance of records of employee work time; filing payroll tax returns; the preparation of W-2 forms; the computation and preparation of payroll checks; and any system or application programming or software.

(ii) For the purposes of this paragraph, the term “information service” means the furnishing of general or specialized news or current information, including financial information, by printed, mimeographed, electronic, or electrical transmission, or by wire, cable, radio waves, microwaves, satellite, fiber optics, or any other method in existence or which may be devised; electronic data retrieval or research, including newsletters, real estate listings, or financial, investment, circulation, credit, stock market, or bond rating reports; mailing lists; abstracts of title; news clipping services; wire services; scouting reports; surveys; bad check lists; and broadcast rating services; but does not include: information sold to a newspaper or a radio or television station licensed by the Federal Communication Commission, if the information is gathered or purchased for direct use in newspapers or radio or television broadcasts; charges to a person by a financial institution for account balance

information; or information gathered or compiled on behalf of a particular client, if the information is of a proprietary nature to that client and may not be sold to others by the person who compiled the information, except for a subsequent sale of the information by the client for whom the information was gathered or compiled.

(iii) The term "data processing services" does not include a service provided by a member of an affiliated group of corporations to other corporate members of the group. Data processing services shall be exempt from sales tax if the service is rendered by a member of the affiliated group of corporations, has not been purchased with a certificate of resale or exemption by the corporation that provides the service, is rendered for the purpose of expense allocation, and is not for the profit of the corporation providing the service. For the purposes of this sub-subparagraph, the term "affiliated group" shall have the same meaning as defined in 26 U.S.C. § 1504(a);

(O) The sale of or charge for any newspaper or publication;

(P)(i) The sale of or charges for stationary two-way radio services, telegraph services, teletypewriter services, and teleconferencing services. The sale of or charges for services listed in this subparagraph shall not be considered sales of or charges for private communication services as defined in subparagraph (G)(iv) of this paragraph;

(ii) The sale of or charges for "900", "976", "915", and other "900"-type telecommunication services;

(iii) The sale of or charges for telephone answering services, including automated services and services provided by human operators;

(iv) The sale of or charges for telephone services rendered by means of coin-operated telephones; and

(v) The sale of or charges for services enumerated in sub-subparagraphs (i) through (iv) of this subparagraph shall not include sales of or charges for services that are subject to tax under § 47-2501 or Chapter 39 of this title;

(Q) The sale of or charge for any delivery in the District for which a separate charge is made, except merchandise delivered for resale for which a District of Columbia certificate of resale has been issued or the delivery of any newspapers;

(R) The sale of or charge for the service of procuring, offering, or attempting to procure in the District job seekers for employers or employment for job seekers, including employment advice, counseling, testing, resume preparation and any other related services;

(S) The sale of or charge for the service of placing a job seeker with an employer in the District;

(T) The sale of a prepaid telephone calling card, even if no card has been issued. Notwithstanding any other provision of law, any sale of a prepaid telephone calling card on or after October 1, 1997, shall be deemed the sale of tangible personal property subject only to such taxes as are imposed on the sale of food for immediate consumption as defined under subsection (g-1) of this section, even where no card has been issued. Gross receipts or charges from the sale of the telecommunication service purchased through the use of a prepaid



telephone calling card, even if no card has been issued, shall not be subject to the taxes imposed under § 47-2501 et seq.; or § 47-3901 et seq.; or

(U) The sale of or charges for armored car service, private investigation service, and security service; provided, that an armored-car-services vendor may reasonably apportion any charges for any out-of-state delivery component, including the apportionment of distance, time, or number of stops within and outside of the District; provided further, that application of the sales and use tax to charges for security services is controlled by the delivery point of the services; provided further, that the reimbursement of incidental expenses paid to a third party and incurred in connection with providing a taxable private detective service shall not be included.

(2) The terms “retail sale” and “sale at retail” shall not include the following:

(A) Sales of transportation and communication services other than sales of data processing services, information services, local telephone service, or any service enumerated in paragraph (1)(P) of this subsection;

(B) Professional, insurance, or personal service transactions which involve sales as inconsequential elements for which no separate charges are made, except as otherwise provided in paragraph (1) of this subsection;

(C) Any sale in which the only transaction in the District is the mere execution of the contract of sale and in which the tangible personal property sold is not in the District at the time of the execution and is not sold by a nexus-vendor; provided, however, that nothing contained in this subsection shall be construed to be an exemption from the tax imposed under Chapter 22 of this title;

(D) Sales to a common carrier or sleeping car company by a corporation all of whose capital stock is owned by 1 or more common carriers or sleeping car companies of tangible personal property, procured or acquired by such corporation outside the District, which consists of repair or replacement parts used for the maintenance or repair of any train operating principally without the District in the course of interstate commerce, or commerce between the District and a state, provided such sales are made in connection with the furnishing of terminal services pursuant to a written agreement entered into before January 1, 1963;

(E) Sales of food or drink of a type that constitute “eligible foods”, as defined in 7 CFR § 271.2, or food purchased for animal ingestion, without regard to whether such food or drink is purchased with food stamps, except sales of food or drink prepared for immediate consumption and soft drinks;

(F) Sales of Internet access service—

(i) For the purposes of this subparagraph, the term “Internet access service” means a service that enables users to access content, information, electronic mail, or other services offered over the Internet and may also include access to proprietary content, information, and other services as part of a package of Internet access services offered to consumers.

(ii) “Internet access service” shall not include the sale of or charges for data processing and information services as defined in paragraph (1)(N)(i) and (ii) of this subsection that do not enable users to access content, information, electronic mail, or other services offered over the Internet.

(iii) “Internet access service” shall not include telecommunication services as defined in paragraph (1)(P) of this subsection or Chapter 39 of this title;

(G) Sales within the District of Columbia by Qualified High Technology Companies of intangible property or services otherwise taxable as a retail sale or sale at retail, including Internet-related services and sales, including website design, maintenance, hosting, or operation; Internet-related consulting, advertising, or promotion services; the development, rental, lease, or sale of Internet-related applications, connectivity, digital content, or products and services; advertising space and design; graphic design; banner advertising; subscription services; downloads from databases; services that involve the provision of strategic advice for Internet use and presence; Internet website design and maintenance services; Internet website assessment and diagnostic services; the use of proprietary content, information, and other services as part of a package of Internet advice and consulting services. This paragraph shall not apply to telecommunication service providers.

(H) Sales of valet parking services by a valet parking service business, as defined in paragraph (1)(L)(iv-I)(II) of this subsection;

(I) Fees retained by a retail establishment under [§ 8-102.03(b)(1)]; or

(J) Sales of cigarettes, as defined in § 47-2401(1A).

(o) “Return” includes any return filed or required to be filed as herein provided.

(o-1) “Room remarketer” means any person, other than the operator of a hotel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration, having any right, access, ability, or authority, through an internet transaction or any other means whatsoever, to offer, reserve, book, arrange for, remarket, distribute, broker, resell, or facilitate the transfer of rooms the occupancy of which is subject to tax under this chapter and also having any right, access, ability or authority to determine the sale or charge for the rooms, lodgings, or accommodations.

(p)(1) “Sales price” means the total amount paid by a purchaser to a vendor as consideration for a retail sale, valued in money, whether paid in money or otherwise, without any deduction on account of any of the following:

(A) The cost of the property sold;

(B) The cost of materials used, labor or service cost, interest charged, losses, or any other expenses;

(C) The cost of transportation of the property prior to its sale at retail. The total amount of the sales price includes all of the following:

(i) Any services that are a part of the sale; and

(ii) Any amount for which credit is given to the purchaser by the vendor; or

(D) Amounts charged for any cover, minimum, entertainment, or other service in hotels, restaurants, cafes, bars, and other establishments where meals, food or drink, or other like tangible personal property is furnished for a consideration.

(2) The term “sales price” does not include any of the following:



(A) Cash discounts allowed and taken on sales;

(B) The amount charged for property returned by purchasers to vendors upon rescission of contracts of sale when the entire amounts charged therefor are refunded either in cash or credit, and when the property is returned within 90 days from the date of sale;

(C) The amount separately charged for labor or services rendered in installing or applying the property sold, except as provided in subsection (n)(1) of this section;

(D) The amount of reimbursement of tax paid by the purchaser to the vendor under this chapter; or

(E) Transportation charges separately stated, if the transportation occurs after the sale of the property is made.

(q) "Sale" and "selling" mean any transaction whereby title or possession, or both, of tangible personal property is or is to be transferred by any means whatsoever, including rental, lease, license, or right to reproduce or use, for a consideration, by a vendor to a purchaser, or any transaction whereby services subject to tax under this chapter are rendered for consideration or are sold to any purchaser by any vendor, and shall include, but not be limited to, any "sale at retail" as defined in this chapter. Such consideration may be either in the form of a price in money, rights, or property, or by exchange or barter, and may be payable immediately, in the future, or by installments.

(q-1)(1) "Security service" shall include any activity that is performed for compensation as a security guard to protect any individual or property and provided on the premises of a person's residential or commercial property, the service of monitoring an electronically controlled burglar or fire alarm system for any residential or commercial property located in the District, or responding to a distress call or an alarm sounding from a security system.

(2) The term "security service" shall not include:

(A) Installing a burglar or fire alarm system in commercial or residential property;

(B) Maintaining or repairing a security system for a customer;

(C) Monitoring property located entirely outside of the District, even if the equipment used to perform the monitoring service is located in the District; or

(D) Providing a medical-response system used by individuals to summon medical aid.

(r) "Semipublic institution" means any corporation, and any community chest, fund, or foundation, organized exclusively for religious, scientific, charitable, or educational purposes, including hospitals, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

(r-1) "Soft drink" means a non-alcoholic beverage with natural or artificial sweeteners. The term "soft drink" shall not include a beverage that:

(1) Contains:

(A) Milk or milk products;

(B) Soy, rice, or similar milk substitutes;

(C) Fruit or vegetable juice, unless the beverage is carbonated; or

(D) Coffee, coffee substitutes, cocoa, or tea; or

(2) Is prepared for immediate consumption, as defined in subsection (g-1) of this section.

(s) "Tangible personal property" means corporeal personal property of any nature.

(t) "Tax" means the tax imposed by this chapter.

(u) "Taxpayer" means any person required by this chapter to make returns or to pay the tax imposed by this chapter.

(v) "Tax year" means the calendar year, or the taxpayer's fiscal year if it be other than the calendar year when such fiscal year is regularly used by the taxpayer for the purpose of reporting District income taxes as the tax period in lieu of the calendar year.

(v-1) "Other tobacco products" means any product containing tobacco that is intended or expected to be consumed, other than a cigarette, cigar, premium cigar, or pipe tobacco.

(w) "Vendor" includes a person or retailer, including a nexus-vendor, selling property or rendering services upon the receipts from which a tax is imposed under this chapter.

(w-1)(1) "Special Event" means an uncommon, unique, noteworthy, or extra occurrence of a specific activity open to the general public that is designed, advertised, or promoted for an identified purpose to be conducted or held on a designated day or series of days, whether held outdoors, indoors, or both, in a public or private facility, at which at least 50 vendors will be present. Special events include auctions, shows, celebrations, circuses, expositions, entertainment, exhibits, fairs, festivals, fund raisers, historical re-enactments, movies, pageants, parades, and sporting events, the conduct of which has the effect, intent, or propensity to draw persons and create an atmosphere or opportunity to sell tangible personal property or services which are taxable under this chapter or Chapter 22 of this title.

(2) Special events shall not include an activity that constitutes a "qualified convention or trade show activity" as defined in section 513(d) of the Internal Revenue Code of 1986.

(x) The foregoing definitions shall be applicable whenever the words defined are used in this chapter unless otherwise required by the context.

(May 27, 1949, 63 Stat. 112, ch. 146, title I, §§ 101-124; May 18, 1954, 68 Stat. 117, ch. 218, title XIII, §§ 1301, 1302; Mar. 31, 1956, 70 Stat. 80, ch. 154, title II, §§ 201-203; Sept. 2, 1964, 78 Stat. 847, Pub. L. 88-564, § 1; Aug. 2, 1968, 82 Stat. 613, Pub. L. 90-450, title III, §§ 301, 302, 303; Oct. 31, 1969, 83 Stat. 169, Pub. L. 91-106, title I, §§ 101, 102, 103; Jan. 5, 1971, 84 Stat. 1932, Pub. L. 91-650, title II, § 201(a)(1); Sept. 3, 1974, 88 Stat. 1064, Pub. L. 93-407, title IV, § 473; Jan. 3, 1975, 88 Stat. 2177, Pub. L. 93-635, § 8(b); Oct. 21, 1975, D.C. Law 1-23, title III, § 301(1)-(6), 22 DCR 2097; Apr. 9, 1976, D.C. Law 1-61, § 2, 22 DCR 5893; June 15, 1976, D.C. Law 1-70, title IV, §§ 401, 402, 23 DCR 533; June 24, 1977, D.C. Law 2-11, § 2, 24 DCR 1773; Sept. 13, 1980, D.C. Law 3-92, § 201(a), 27 DCR 3390; Apr. 30, 1982, D.C. Law 4-105, § 2, 29 DCR 1405; July 24, 1982, D.C. Law 4-131, §§ 201, 202, 223, 29 DCR 2418; Sept. 26, 1984,



D.C. Law 5-113, § 201(a), (d), 31 DCR 3974; Apr. 30, 1988, D.C. Law 7-104, § 38, 35 DCR 147; July 26, 1989, D.C. Law 8-17, § 4(a), 36 DCR 4160; May 4, 1990, D.C. Law 8-119, § 3, 37 DCR 1738; Sept. 10, 1992, D.C. Law 9-145, § 107(a), 39 DCR 4895; Sept. 30, 1993, D.C. Law 10-25, § 111(a)-(d), 40 DCR 5489; Feb. 5, 1994, D.C. Law 10-68, § 46, 40 DCR 6311; Apr. 30, 1994, D.C. Law 10-115, § 203(a), 41 DCR 1216; June 14, 1994, D.C. Law 10-128, § 104(a), 41 DCR 2096; Mar. 21, 1995, D.C. Law 10-242, § 14(a), 42 DCR 86; Apr. 18, 1996, D.C. Law 11-110, § 59, 43 DCR 530; Apr. 12, 1997, D.C. Law 11-257, § 6, 44 DCR 1247; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 30, 1998, D.C. Law 12-100, § 2(b), 45 DCR 1533; Oct. 20, 1999, D.C. Law 13-38, § 2702(k), 46 DCR 6373; Apr. 3, 2001, D.C. Law 13-256, § 402(a), 48 DCR 730; June 9, 2001, D.C. Law 13-305, § 102(a), 202(f), 48 DCR 334; June 25, 2002, D.C. Law 14-157, § 2(a), 49 DCR 4279; Oct. 1, 2002, D.C. Law 14-190, § 852, 49 DCR 6968; Oct. 19, 2002, D.C. Law 14-213, § 33(u), 49 DCR 8140; Mar. 13, 2004, D.C. Law 15-105, § 85(a), 51 DCR 881; Oct. 20, 2005, D.C. Law 16-33, § 1232, 52 DCR 7503; May 12, 2006, D.C. Law 16-94, § 2(a), 53 DCR 1649; Sept. 23, 2009, D.C. Law 18-48, § 2(a)(1), 56 DCR 5482; Sept. 23, 2009, D.C. Law 18-55, § 9(a)(4), 56 DCR 5703; Mar. 3, 2010, D.C. Law 18-111, § 7241(e), 57 DCR 181; Sept. 24, 2010, D.C. Law 18-223, § 7172, 57 DCR 6242; Apr. 8, 2011, D.C. Law 18-364, § 2(a), 58 DCR 976; Sept. 14, 2011, D.C. Law 19-21, §§ 7002(a)(1), 8032(a), 8052(a), 8162, 58 DCR 6226.)

**Cross references.** — Alcoholic beverage control, rules and regulations, see § 25-211.

Compensating-use tax, food or drink for immediate consumption, see § 47-2202.01.

Compensating-use tax, imposition of tax, tax rates, see § 47-2202.

Compensating-use tax, “retail sale”, “sale at retail” and “sold at retail” defined, see § 47-2201.

Financial institution, guaranty company and public utility taxes, “telecommunication company” and “toll telecommunication service” defined, see § 47-2501.

Rental housing conversion and sale, “housing accommodation” or “accommodation” defined, see § 42-3401.03.

Rental housing, “housing accommodation” defined, see § 42-3501.03.

**Section references.** — This section is referred to in §§ 2-1217.01, 47-2002, 47-2002.02, and 47-2205.

**Prior Codifications.** — 1981 Ed., § 47-2001.

1973 Ed., § 47-2601.

**Effect of amendments.** — D.C. Law 13-38 added subsec. (n)(2)(F).

D.C. Law 13-256 added subsec. (n)(2)(G).

D.C. Law 13-305 repealed subsec. (g-2); repealed subpar. (iii) of subsec. (n)(1)(A); rewrote subsec. (n)(2)(E); in subsec. (r) struck the sentence “For the purpose of this chapter, an organization or institution which does not embrace the generally recognized relationship of

teacher and student shall be deemed not to be operated for educational purposes.”; and added subsec. (w)(1).

Prior to repeal, subsec. (g-2) had read:

“(g-2) “Snack food” includes, but is not limited to, potato chips and sticks; corn or tortilla chips; pretzels; cookies; popped popcorn; pork rinds; cheese puffs and curls; crackers; fabricated snacks; snack cakes and pies, such as donuts, cake and pie slices, and other pastries that are baked or fried in, or sliced into, individual serving sizes; candy; chewing gum; nuts and edible seeds; marshmallows; mixtures that contain one or more snack foods; soft drinks; and fruit or vegetable drinks that contain less than 15% natural fruit or vegetable juice by volume. “Snack food” includes only those items that are sold suitable for consumption without further processing such as heating, cooking, or thawing. The term “snack food” does not include any food or drink included in subsection (g-1) of this section.”

Prior to repeal, subpar. (iii) of subsec. (n)(1)(A) had read:

“(iii) Sales of snack food as defined in subsec. (g-2) of this section;”

Prior to amendment, subsec. (n)(2)(E) read:

“(E) Sales of food or drink as defined in subsection (g) of this section, except sales of food or drink for immediate consumption as defined in subsection (g-1) of this section, and snack food as defined in subsection (g-2) of this section; or”

D.C. Law 14-157, in subsec. (n)(1)(E), substi-

tuted "resold. This section shall not apply to the sale of material for the purpose of subsequently transporting the property outside the District for use solely outside the District;" for "resold;".

D.C. Law 14-190, in subsec. (n), added par. (1)(L)(iv-1), made nonsubstantive changes in paras. (2)(F) and (2)(G), and added par. (2)(H).

D.C. Law 14-213, in subsec. (n)(2)(F), validated a previously made technical correction.

D.C. Law 15-105, in subsec. (n)(1)(E), substituted "resold, however, this section" for "resold. This section".

D.C. Law 16-33, designated the existing text of subsec. (n)(1)(M)(i) as subsec. (n)(1)(M)(i)(I); and added subsec. (n)(1)(M)(i)(II).

D.C. Law 16-94 added subsec. (v-1).

D.C. Law 18-48, in subsec. (n)(1)(D), deleted " , when made to any purchaser for purposes other than resale or for use in manufacturing, assembling, processing, or refining" following "steam".

D.C. Law 18-55, in subsec. (n)(2), deleted " ; or" from the end of subpar. (G); substituted " ; or" for a period at the end of subpar. (H), and added par. (I).

D.C. Law 18-111 added subsecs. (b-1) and (i-1); and rewrote subsecs. (v-1).

D.C. Law 18-223 added subsecs. (r-1) and (n)(1)(A)(iv); and, in subsec. (n)(2)(E), substituted "for immediate consumption and soft drinks;" for "for immediate consumption;".

D.C. Law 18-364 rewrote subsec. (n)(1)(C).

D.C. Law 19-21 added subsecs. (a-1), (a-2), (h-1), (h-2), (i-2), (n)(1)(U), (n)(2)(J), (o-1), and (q-1); in subsec. (n)(1), substituted "mean the sale in any quantity or quantities of any tangible personal property or service, including any such sales effected via the internet by a nexus-vendor, taxable" for "means the sale in any quantity or quantities of any tangible personal property or service taxable" and substituted "These terms mean" for "Said term shall mean"; in subsec. (n)(2)(C), substituted "is not in the District at the time of the execution and is not sold by a nexus-vendor;" for "is not in the District at the time of such execution; attempted to make a change accomplished earlier by D.C. Law 18-364;"; and, in subsec. (w), substituted "retailer" including a nexus vendor, selling" for "retailer selling".

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 107(a) of Omnibus Budget Support Temporary Act of 1992 (D.C. Law 9-134, July 23, 1992, law notification 39 DCR 5815).

For temporary (225 day) amendment of section, see § 111(a)-(d) of Omnibus Budget Support Temporary Act of 1993 (D.C. Law 10-11, August 6, 1993, law notification 40 DCR 6213).

For temporary (225 day) amendment of section, see § 2 of Sales and Use Tax on Newspapers Temporary Amendment Act of 1993 (D.C.

Law 10-32, October 15, 1993, law notification 40 DCR 7475).

For temporary (225 day) prohibition of increase of certain taxes, see § 2 of Economic Recovery Conformity Temporary Act of 1996 (D.C. Law 11-216, April 9, 1998, law notification 44 DCR 2574).

Section 8 of D.C. Law 19-53 amended subsecs. (a-1), (h-1), (n)(1)(C) and added subsec. (v-2) to read as follows:

"(a-1) 'Additional charges' means the excess of the sale or charge receipts received by a room remarketer over the net charges."

"(h-1) 'Net charges' means the sale or charge receipts for any room or rooms, lodgings, or accommodations furnished to transients, received from a room remarketer by the operator of a hotel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration."

"(C) The sale or charge, to include net charges and additional charges, for any room or rooms, lodgings, or accommodations furnished to transients by any hotel, room remarketer, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for consideration."

"(v-2) 'Transient' means any person who occupies, or has the right to occupy, any room or rooms, lodgings, or accommodations for a period of 90 days or less during any one continuous stay."

Section 15(b) of D.C. Law 19-53 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary prohibition, on an emergency basis, of the increase in the individual income tax, the sales and use tax, and real property tax rates contingent on the enactment of an act of Congress which would reduce the percentage of federal income tax applicable solely to residents of D.C. under the Internal Revenue Code of 1986, see § 2 of the Economic Recovery Conformity Emergency Act of 1996 (D.C. Act 11-377, August 28, 1996, 43 DCR 4797).

For temporary (90-day) addition of section, see § 2702(k) of the Service Improvement and Fiscal Year 2000 Budget Support Emergency Act of 1999 (D.C. Act 13-110, July 28, 1999, 46 DCR 6320).

For temporary (90 day) amendment of section, see § 2 of Simplified Sales and Use Tax District of Columbia Participation Emergency Act of 2001 (D.C. Act 14-168, November 19, 2001, 48 DCR 11026).

For temporary (90 day) amendment of section, see § 852 of Fiscal Year 2003 Budget Support Emergency Act of 2002 (D.C. Act 14-453, July 23, 2002, 49 DCR 8026).



For temporary (90 day) amendment of section, see §§ 1232, 1234 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 7241(e) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 7241(e) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) amendment of section, see § 7172 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

For temporary (90 day) amendment of section, see § 7002(a)(1) of Fiscal Year 2012 Budget Support Technical Clarification Emergency Amendment Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

For temporary (90 day) amendment of section, see § 8 of Revised Fiscal Year 2012 Budget Support Technical Clarification Emergency Amendment Act of 2011 (D.C. Act 19-157, October 4, 2011, 58 DCR 8688).

For temporary (90 day) amendment of section, see § 7112 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 7112 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

**Legislative history of Law 1-23.** — Law 1-23, the “Revenue Act of 1975,” was introduced in Council and assigned Bill No. 1-47, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first, amended first, and second readings, and reconsideration of second reading, on April 15, 1975, June 1, 1975, June 24, 1975 and July 11, 1975, respectively. Signed by the Mayor on July 23, 1975, it was assigned Act No. 1-34 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 1-61.** — Law 1-61, the “Revenue Act of 1975—Third Amendment,” was introduced in Council and assigned Bill No. 1-215, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 19, 1975 and January 13, 1976, respectively. Signed by the Mayor on February 6, 1976, it was assigned Act No. 1-91 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 1-70.** — Law 1-70, the “Revenue Act of 1976,” was introduced in Council and assigned Bill No. 1-229, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and

second readings and reconsiderations of final reading on February 20, 1976, March 11, 1976 and April 6, 1976, respectively. Signed by the Mayor on April 20, 1976, it was assigned Act No. 1-106 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 2-11.** — Law 2-11, the “Residential Parking Tax Exemption Act,” was introduced in Council and assigned Bill No. 2-62, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 22, 1977 and April 5, 1977, respectively. Signed by the Mayor on April 25, 1977, it was assigned Act No. 2-32 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 3-92.** — Law 3-92, the “District of Columbia Revenue Act of 1980,” was introduced in Council and assigned Bill No. 3-285, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 17, 1980 and July 1, 1980, respectively. Signed by the Mayor on July 9, 1980, it was assigned Act No. 3-214 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 4-105.** — Law 4-105, the “Candy, Confectionery, Soft Drink, and Chewing Gum Sales Tax Amendment Act of 1981,” was introduced in Council and assigned Bill No. 4-231, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 27, 1981 and February 23, 1982, respectively. Signed by the Mayor on March 10, 1982, it was assigned Act No. 4-166 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 4-131.** — Law 4-131, the “District of Columbia Tax Enforcement Act of 1982,” was introduced in Council and assigned Bill No. 4-257, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 27, 1982, and May 11, 1982, respectively. Signed by the Mayor on June 1, 1982, it was assigned Act No. 4-196 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 5-113.** — Law 5-113, the “District of Columbia Revenue Act of 1984,” was introduced in Council and assigned Bill No. 5-370, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 26, 1984 and July 10, 1984, respectively. Signed by the Mayor on July 13, 1984, it was assigned Act No. 5-164 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 7-104.** — Law 7-104, the “Technical Amendments Act of 1987,” was introduced in Council and assigned Bill No. 7-346, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 24, 1987, and

December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-124 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 8-17.** — Law 8-17, the “Revenue Amendment Act of 1989,” was introduced in Council and assigned Bill No. 8-224, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 2, 1989 and May 16, 1989, respectively. Signed by the Mayor on May 26, 1989, it was assigned Act No. 8-34 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 8-119.** — Law 8-119, the “Tax Amendment Act of 1990,” was introduced in Council and assigned Bill No. 8-371, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on January 30, 1990, and February 13, 1990, respectively. Approved without the signature of the Mayor on March 6, 1990, it was assigned Act No. 8-173 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 9-145.** — Law 9-145, the “Omnibus Budget Support Act of 1992,” was introduced in Council and assigned Bill No. 9-222, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 12, 1992, and June 2, 1992, respectively. Approved without the signature of the Mayor on June 22, 1992, it was assigned Act No. 9-225 and transmitted to both Houses of Congress for its review. D.C. Law 9-145 became effective on September 10, 1992.

**Legislative history of Law 10-11.** — For legislative history of D.C. Law 10-11, see Historical and Statutory Notes following § 47-2002.01.

**Legislative history of Law 10-25.** — For legislative history of D.C. Law 10-25, see Historical and Statutory Notes following § 47-2002.01.

**Legislative history of Law 10-68.** — Law 10-68, the “Technical Amendments Act of 1993,” was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

**Legislative history of Law 10-115.** — Law 10-115, the “Financial Administration Revision and Clarification Act of 1994,” was introduced in Council and assigned Bill No. 10-439, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on January 4, 1994, and February 1, 1994,

respectively. Signed by the Mayor on February 25, 1994, it was assigned Act No. 10-205 and transmitted to both Houses of Congress for its review. D.C. Law 10-115 became effective on April 30, 1994.

**Legislative history of Law 10-128.** — Law 10-128, the “Omnibus Budget Support Act of 1994,” was introduced in Council and assigned Bill No. 10-575, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 22, 1994, and April 12, 1994, respectively. Signed by the Mayor on April 14, 1994, it was assigned Act No. 10-225 and transmitted to both Houses of Congress for its review. D.C. Law 10-128 became effective on June 14, 1994.

**Legislative history of Law 10-242.** — Law 10-242, the “Clean Air Compliance Fee Act of 1994,” was introduced in Council and assigned Bill No. 10-610, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 1, 1994, and December 6, 1994, respectively. Signed by the Mayor on December 28, 1994, it was assigned Act No. 10-387 and transmitted to both Houses of Congress for its review. D.C. Law 10-242 became effective on March 21, 1995.

**Legislative history of Law 11-110.** — Law 11-110, the “Technical Amendments Act of 1996,” was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

**Legislative history of Law 11-248.** — Law 11-248, the “Recorder of Deeds Recordation Surcharge Amendment Act of 1996,” was introduced in Council and assigned Bill No. 11-670, which was referred to the Committee of the Whole. The Bill was adopted in first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-512 and transmitted to both Houses of Congress for its review. D.C. Law 11-248 became effective on April 9, 1997.

**Legislative history of Law 12-100.** — Law 12-100, the “Commercial Mobile Telecommunication Service Tax Clarification Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-425, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 4, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 27, 1998, it was assigned Act No. 12-276 and transmitted to both Houses of Congress for its



review. D.C. Law 12-100 became effective on April 30, 1998.

**Legislative history of Law 13-38.** — Law 13-38, the “Service Improvement and Fiscal Year 2000 Budget Support Act of 1999,” was introduced in Council and assigned Bill No. 13-161, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 11, 1999, and June 22, 1999, respectively. Signed by the Mayor on July 8, 1999, it was assigned Act No. 13-111 and transmitted to both Houses of Congress for its review. D.C. Law 13-38 became effective on October 20, 1999.

**Legislative history of Law 13-256.** — For Law 13-256, see notes following § 47-1817.01.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Legislative history of Law 14-157.** — Law 14-157, the “Compensating Use Tax Clarification Act of 2002,” was introduced in Council and assigned Bill No. 14-462, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 5, 2002, and April 9, 2002, respectively. Signed by the Mayor on April 24, 2002, it was assigned Act No. 14-336 and transmitted to both Houses of Congress for its review. D.C. Law 14-157 became effective on June 25, 2002.

**Legislative history of Law 14-190.** — For Law 14-190, see notes following § 47-308.01.

**Legislative history of Law 14-213.** — For Law 14-213, see notes following § 47-820.

**Legislative history of Law 15-105.** — For Law 15-105, see notes following § 47-902.

**Legislative history of Law 16-33.** — For Law 16-33, see notes following § 47-308.01.

**Legislative history of Law 16-94.** — Law 16-94, the “Other Tobacco Products Tax Act of 2006,” was introduced in Council and assigned Bill No. 16-117 which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on January 4, 2006, and February 7, 2006, respectively. Signed by the Mayor on February 27, 2006, it was assigned Act No. 16-289 and transmitted to both Houses of Congress for its review. D.C. Law 16-94 became effective on May 12, 2006.

**Legislative history of Law 18-48.** — Law 18-48, the “Processing Sales Tax Clarification Act of 2009,” was introduced in Council and assigned Bill No. 18-21, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 2, 2009, and June 16, 2008, respectively. Enacted without signature by the Mayor on June 26, 2009, it was assigned Act No. 18-123 and transmitted to both Houses of Congress for its review. D.C. Law 18-48 became effective on September 23, 2009.

**Legislative history of Law 18-55.** — For Law 18-55, see notes following § 47-1803.02.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-305.02.

**Legislative history of Law 18-223.** — For Law 18-223, see notes following § 47-355.05.

**Legislative history of Law 18-364.** — Law 18-364, the “Payment of Full Hotel Taxes by Online Vendors Clarification Act of 2010,” was introduced in Council and assigned Bill No. 18-655, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on January 27, 2011, it was assigned Act No. 18-715 and transmitted to both Houses of Congress for its review. D.C. Law 18-364 became effective on April 8, 2011.

**Legislative history of Law 19-21.** — For Law 19-21, see notes following § 47-305.02.

**Short title.** — Short title: Section 7171 of D.C. Law 18-223 provided that subtitle R of title VII of the act may be cited as the “Healthy Schools Revenue Act of 2010”.

Short title: Section 7001 of D.C. Law 19-21 provided that subtitle A of title VII of the act may be cited as “Procedure for Remittance of Hotel Taxes by Online Vendors Act of 2011”.

Short title: Section 8031 of D.C. Law 19-21 provided that subtitle D of title VIII of the act may be cited as “Sales Tax Act of 2011.”

Short title: Section 8051 of D.C. Law 19-21 provided that subtitle F of title VIII of the act may be cited as “Cigarette Sales Tax Enhancement Act of 2011”.

Short title: Section 8151 of D.C. Law 19-21 provided that subtitle P of title VIII of the act may be cited as “Internet Sales Tax Act of 2011”.

Short title of subtitle D of title VIII of Law 14-190: Section 851 of D.C. Law 14-190 provided that subtitle D of title VIII of the act may be cited as the Parking Tax Clarification Act of 2002.

Short title of subtitle BB of title I of Law 16-33: Section 1231 of D.C. Law 16-33 provided that subtitle BB of title I of the act may be cited as the Recyclable Material Sales Tax Clarification Act of 2005.

**Effective date.** — Section 3(b) of D.C. Law 4-105 provided that the provisions of § 2 of the act shall take effect on the first day of the first month which begins more than 30 days after April 30, 1982.

Section 202 of D.C. Law 5-113 provided that § 201 shall take effect October 1, 1984.

**Editor’s notes.** — Section 1234 of D.C. Law 16-33 provided that § 1232 shall apply as of October 1, 2005.

Section 4 of D.C. Law 16-94 provided that § 2 shall apply as of April 1, 2006.

Section 3 of D.C. Law 18-48 provided that this act shall apply as of January 1, 2009.

Mayor authorized to issue rules: See second paragraph of note to § 47-2601.

Office of Collector of Taxes abolished: See Historical and Statutory Notes following § 47-401.

Section 4(b) of D.C. Law 12-100 provided that returns or payments due from wireless telecommunication companies for the period beginning May 1, 1997, through the effective date of this act not previously filed or paid shall be due by the 45th day after the effective date of this act.

Section 4(c) of D.C. Law 12-100 provided that beginning in FY 1999, the amount of tax imposed by the act shall not be calculated as gross revenue to which the tax is then applied.

Repeal of D.C. Law 10-242 inapplicable to this section: Section 11702(b) of title XI of Pub. L. 105-33, 111 Stat. 781, the National Capital Revitalization and Self-Government Improvement Act of 1997, provided that § 11702(a), which repealed the Clean Air Compliance Fee Act of 1994, D.C. Law 10-242, shall not apply to § 14 of Law 10-242.

Section 103 of D.C. Law 13-305 provided: "Sec. 103. Applicability. Section 102(a) through (c) shall apply beginning April 1, 2001. Section 102(d) shall apply beginning October 1, 2001."

## CASE NOTES

### ANALYSIS

Discriminatory enforcement.  
Estoppel.  
Free-lance authors.  
Public stenographic services.  
Transients.  
Vendors.

#### Discriminatory enforcement.

Requiring temporary staffing company to pay sales and use tax on real property maintenance service that company employees performed for hotels did not violate company's equal protection rights; audit of a third party led to the discovery of the sales tax omission, and applying the tax law was not result of discrimination. *Hospitality Temps Corp. v. District of Columbia*, 926 A.2d 131, 2007 D.C. App. LEXIS 265 (2007).

#### Estoppel.

District of Columbia's alleged inaction for several years before attempting to collect sales and use tax on real property maintenance services that temporary staffing company's employees provided to hotels did not equitably estop the District from collecting the tax; the District made no promise to company not to tax its sale of real property maintenance services. *Hospitality Temps Corp. v. District of Columbia*, 926 A.2d 131, 2007 D.C. App. LEXIS 265 (2007).

#### Free-lance authors.

Sale for resale exemption from sales and use tax did not apply to taxpayer's sale of service by leasing employees to hotels for maintenance; the exemption applied only to sale of tangible property. *Hospitality Temps Corp. v. District of Columbia*, 926 A.2d 131, 2007 D.C. App. LEXIS 265 (2007).

Sale and use tax exemption for real property maintenance services performed under an employer-employee relationship was inapplicable to services performed by taxpayer's employees leased to hotels; taxpayer admitted that hotels bought taxpayer's services to avoid employer-

employee relationship, no hotel claimed to be co-employer, and regulations excluded temporary staffing company employees from the exemption. *Hospitality Temps Corp. v. District of Columbia*, 926 A.2d 131, 2007 D.C. App. LEXIS 265 (2007).

Services that taxpayer's employees performed for hotels leasing them from taxpayer were "real property maintenance services" subject to sale and use tax; the employees performed common custodial, janitorial, housekeeping, and cleaning services, such as floor, wall and ceiling cleaning, window cleaning, trash removal and restroom cleaning. *Hospitality Temps Corp. v. District of Columbia*, 926 A.2d 131, 2007 D.C. App. LEXIS 265 (2007).

The statutory exclusions in subsection (n)(2)(B) of this section and § 47-2201 (a)(2)(B) of this section apply to professional and creative services of writers and there is no justification for the imposition of tax on the services of petitioner's free-lance authors. *Washington Magazine, Inc. v. District of Columbia*, 115 WLR 2085 (Super. Ct. 1987).

#### Public stenographic services.

Court reporting services are not public stenographic services and are exempt from sales and use taxes pursuant to subsection (n)(2)(B) of this section and § 47-2201 (a)(2)(B). *Acme Reporting Co. v. District of Columbia*, 113 WLR 1533 (Super. Ct. 1985).

The World Bank's immunity from taxation conferred under its treaty extended to independent contractor who operated the Bank's food service program, and therefore, contractor was immune from liability for District of Columbia sales and use taxes related to program's operations; providing meals to employees and guests on bank premises was within scope of bank's ordinary business. *Bretton Woods Agreements Act*, § 11, 22 U.S.C. § 286h. *International Bank for Reconstruction & Dev. v. District of Columbia*, 996 F. Supp. 31, 1998 U.S. Dist. LEXIS 2542 (1998), reversed by, remanded by 171 F.3d 687, 335 U.S. App. D.C. 224, 1999 U.S. App. LEXIS 5944 (1999).



Term “public stenographic services,” used in sales and use tax code provisions subjecting such services to taxation, did not include court reporting services. D.C. Code 1981, §§ 47-2001(n)(1)(H), 47-2201(a)(1)(G). *District of Columbia v. Acme Reporting Co.*, 530 A.2d 708, 1987 D.C. App. LEXIS 417 (1987).

#### **Transients.**

Term “transients” in statute imposing sales tax on gross receipts from charges for rooms furnished to transients encompasses persons who have the right to occupy, upon reservation, the rooms set-aside in a room block. *Square 345 Ltd. P’ship v. District of Columbia*, 927 A.2d 1020, 2007 D.C. App. LEXIS 264 (2007).

Hotel rooms for which groups paid attrition fees because group participants failed to make minimum room reservations in block were “furnished to transients” within the meaning of

statute imposing sales tax on gross receipts from charges for rooms furnished to transients; participants became “transients” based on exclusive right to occupy the rooms at favorable rates, even though they did not exercise right to occupy rooms. *Square 345 Ltd. P’ship v. District of Columbia*, 927 A.2d 1020, 2007 D.C. App. LEXIS 264 (2007).

#### **Vendors.**

Corporate officers fit within meaning of “vendor,” for purposes of tax statute providing that District has lien upon all property of any vendor who fails to collect or pay sales and use taxes, and, thus, District had statutory authority to impose tax lien against officers personally for sales and use tax debt owed by corporation. *Kelly v. District of Columbia*, 765 A.2d 976, 2001 D.C. App. LEXIS 17 (2001).

## **§ 47-2002. Imposition of tax.**

(a) A tax is imposed upon all vendors for the privilege of selling at retail certain tangible personal property and for the privilege of selling certain selected services (defined as “retail sale” and “sale at retail” in this chapter). The rate of such tax shall be 6% of the gross receipts from sales of or charges for such tangible personal property and services, except that:

(1) The rate of tax shall be 18% of the gross receipts from the sale of or charges for the service of parking or storing of motor vehicles or trailers, except the service of parking or storing of motor vehicles or trailers on a parking lot owned or operated by the Washington Metropolitan Area Transit Authority and located adjacent to a Washington Metropolitan Area Transit Authority passenger stop or station;

(2)(A) The rate of tax shall be 10.05% of the gross receipts from the sale of or charges for any room or rooms, lodgings, or accommodations furnished to a transient by any hotel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients;

(B) If the occupancy of a room or rooms, lodgings, or accommodations is reserved, booked, or otherwise arranged for by a room remarketer, the tax imposed by this paragraph shall be determined based on the net charges and additional charges received by the room remarketer.

(3) The rate of tax shall be 9% of the gross receipts from the sale of or charges for:

(A) Food or drink prepared for immediate consumption as defined in § 47-2001(g-1);

(B) Spirituous or malt liquors, beers, and wine sold for consumption on the premises where sold; and

(C) Rental or leasing of rental vehicles and utility trailers as defined in § 50-1505.01;

(3A) The rate of tax shall be 10% of the gross receipts of the sales of or charges for spirituous or malt liquors, beers, and wine sold for consumption off the premises where sold;



(4) Repealed;

(4A) The rate of tax shall be 5.75% of the gross receipts from the sale of or charges for tangible personal property or services by legitimate theaters, or by entertainment venues with 10,000 or more seats, excluding any such theaters or entertainment venues from which such taxes are applied to pay debt service on tax-exempt bonds;

(5) The rate of tax shall be 12% of the gross receipts from the sale of or charges for cigars, excluding premium cigars;

(6) The rate of tax shall be 12% of the gross receipts from the sale of or charges for other tobacco products; and

(7)(A) The rate of tax shall be 6% of the gross receipts from the sale of or charges for medical marijuana, as defined in the Legalization of Marijuana for Medical Treatment Initiative of 1999, transmitted on December 21, 2009 (D.C. Act 13-138) [Chapter 16B of Title 7].

(B) The proceeds of the tax collected under subparagraph (A) of this paragraph shall be deposited in the Healthy DC and Health Care Expansion Fund established by [§ 31-3514.02].

(b) Of the sales tax revenue received pursuant to this section, \$460,000 annually shall be used to fund the Reimbursable Detail Subsidy Program in the Alcoholic Beverage Regulation Administration.

(May 27, 1949, 63 Stat. 115, ch. 146, title I, § 125; May 18, 1954, 68 Stat. 117, ch. 218, title XIII, § 1303; Mar. 2, 1962, 76 Stat. 10, Pub. L. 87-408, § 101(a); Sept. 30, 1966, 80 Stat. 856, Pub. L. 89-610, title III, § 301(a); Aug. 2, 1968, 82 Stat. 614, Pub. L. 90-450, title III, § 304; Oct. 31, 1969, 83 Stat. 170, Pub. L. 91-106, title I, § 104; Jan. 5, 1971, 84 Stat. 1932, Pub. L. 91-650, title II, § 201(a)(2); Aug. 29, 1972, 86 Stat. 643, Pub. L. 92-410, title III, § 301(a)(1), (2); Oct. 21, 1975, D.C. Law 1-23, title III, § 301(7), 22 DCR 2099; June 15, 1976, D.C. Law 1-70, title IV, § 408, 23 DCR 541; Mar. 6, 1979, D.C. Law 2-157, § 6, 25 DCR 6995; Sept. 13, 1980, D.C. Law 3-92, § 201(b), 27 DCR 3390; Sept. 26, 1984, D.C. Law 5-113, § 201(b), (c), 31 DCR 3974; July 26, 1989, D.C. Law 8-17, § 4(b), 36 DCR 4160; Sept. 10, 1992, D.C. Law 9-145, § 107(b), 39 DCR 4895; Sept. 30, 1993, D.C. Law 10-25, § 111(e), 40 DCR 5489; June 14, 1994, D.C. Law 10-128, § 104(b), 41 DCR 2096; Sept. 28, 1994, D.C. Law 10-188, § 302(a), 41 DCR 5333; May 16, 1995, D.C. Law 10-255, § 44, 41 DCR 5193; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 12, 1998, D.C. Law 12-142, § 3(c), 45 DCR 4826; June 5, 2003, D.C. Law 14-307, § 902(a), 49 DCR 11664; May 12, 2006, D.C. Law 16-94, § 2(b), 53 DCR 1649; Mar. 3, 2010, D.C. Law 18-111, § 7241(f), 57 DCR 181; Sept. 24, 2010, D.C. Law 18-223, § 7132, 57 DCR 6242; Apr. 8, 2011, D.C. Law 18-364, § 2(b), 58 DCR 976; Sept. 14, 2011, D.C. Law 19-21, §§ 7002(a)(2), 8032(b),)

**Cross references.** — Compensating-use tax, payment of tax by purchaser, see § 47-2205.

National capital region transportation, revenues deposited in general fund and allocated to metrorail/metrobus account, see § 9-1111.15.

National capital revitalization corporation, determination, publication, collection and de-

posit of tax increment revenues, see § 2-1219.22.

National capital revitalization corporation, “sales and use tax increment revenues” defined, see § 2-1219.01.

Real property assessment and tax, classes of property, disputed occupancy of improved real property, see § 47-813.

Tax rates, records and surplus funds, authority of Council to change certain tax rates, see § 47-504.

**Section references.** — This section is referred to in §§ 47-2002.02, 47-2002.03, 47-2002.05, and 47-

**Prior Codifications.** — 1981 Ed., § 47-2002.

1973 Ed., § 47-2602.

**Effect of amendments.** — D.C. Law 14-307, in par. (3A), substituted “9%” for “8%”.

D.C. Law 16-94, in par. (3A), substituted a semicolon for “; and”; in par. (4), substituted “; and” for a period; and added par. (5).

D.C. Law 18-111, in the introductory language, substituted “5.75%, except for the period beginning October 1, 2009, and ending September 30, 2012, the rate shall be 6%,” for “5.75%, except for the period beginning June 1, 1994, and ending September 30, 1994, the rate shall be 7%,”; added pars. (4A) and (6); and rewrote par. (5).

D.C. Law 18-223 deleted “and” from the end of par. (5); substituted “; and” for a period at the end of par. (6); and added par. (7).

D.C. Law 18-364 designated the existing text of par. (2) as par. (2)(A); and added par. (2)(B).

D.C. Law 19-21 designated the existing text as subsec. (a); in the lead-in language of subsec. (a), substituted “6%” for “5.75%, except for the period beginning October 1, 2009, and ending September 30, 2012, the rate shall be 6%”; in subsec. (a)(1), substituted “18%” for “12%”; in subsec. (a)(2)(B), substituted “net charges and additional charges received by the room remarketer” for “net sale or net charges received from the transient by the room remarketer”; in subsec. (a)(3A), substituted “10%” for “9%”; and added subsec. (b).

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 107(b) of Omnibus Budget Support Temporary Act of 1992 (D.C. Law 9-134, July 23, 1992, law notification 39 DCR 5815).

For temporary (225 day) amendment of section, see § 111(e) of Omnibus Budget Support Temporary Act of 1993 (D.C. Law 10-11, August 6, 1993, law notification 40 DCR 6213).

**Emergency legislation.** — For temporary (90 day) amendment of section, see §§ 902(a) and 903 of Fiscal Year 2003 Budget Support Amendment Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) amendment of section, see §§ 902(a) and 903 of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of section, see §§ 902(a) and 903 of Fiscal Year 2003 Budget Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

For temporary (90 day) amendment of section, see § 7111(e) of Fiscal Year 2010 Budget Support Emergency Act of 2009 (D.C. Act 18-187, August 26, 2009, 56 DCR 7374).

For temporary (90 day) amendment of section, see § 7241(f) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 7241(f) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) amendment of section, see § 7132 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

For temporary (90 day) amendment of section, see § 7002(a)(2) of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

For temporary (90 day) amendment of section, see § 8002 of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

For temporary (90 day) amendment of section, see § 8013 of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 1-23.** — For legislative history of D.C. Law 1-23, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 1-70.** — For legislative history of D.C. Law 1-70, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 2-157.** — Law 2-157, the “Rental Vehicle Tax Reform Act of 1978,” was introduced in Council and assigned Bill No. 2-284, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 28, 1978 and December 12, 1978, respectively. Signed by the Mayor on December 29, 1978, it was assigned Act No. 2-326 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 3-92.** — For legislative history of D.C. Law 3-92, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 5-113.** — For legislative history of D.C. Law 5-113, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 8-17.** — For legislative history of D.C. Law 8-17, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 9-145.** — For legislative history of D.C. Law 9-145, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 10-25.** — For legislative history of D.C. Law 10-25, see His-



torical and Statutory Notes following § 47-2002.01.

**Legislative history of Law 10-128.** — For legislative history of D.C. Law 10-128, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 10-188.** — For legislative history of D.C. Law 10-188, see Historical and Statutory Notes following § 47-2002.01.

**Legislative history of Law 10-255.** — Law 10-255, the "Technical Amendments Act of 1994," was introduced in Council and assigned Bill No. 10-673, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 25, 1994, it was assigned Act No. 10-302 and transmitted to both Houses of Congress for its review. D.C. Law 10-255 became effective May 16, 1995.

**Legislative history of Law 12-142.** — Law 12-142, the "Washington Convention Center Authority Financing Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-379, which was referred to the Committee on Economic Development and the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 2, 1998, and June 16, 1998, respectively. Signed by the Mayor on June 23, 1998, it was assigned Act No. 12-402 and transmitted to both Houses of Congress for its review. The legislation became effective on August 12, 1998, the date that the President of the United States signed P.L. 105-227, which waived the 30-day Congressional review period for this law.

**Legislative history of Law 14-307.** — For Law 14-307, see notes following § 47-903.

**Legislative history of Law 16-94.** — For Law 16-94, see notes following § 47-2001.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-305.02.

**Legislative history of Law 18-223.** — For Law 18-223, see notes following § 47-355.05.

**Legislative history of Law 18-364.** — For history of Law 18-364, see notes under § 47-2001.

**Legislative history of Law 19-21.** — For Law 19-21, see notes following § 47-305.02.

**Short title.** — Short title: Section 7131 of D.C. Law 18-223 provided that subtitle N of title VII of the act may be cited as the "Health Care Expansion Act of 2010".

Short title: Section 8041 of D.C. Law 19-21 provided that subtitle E of title VIII of the act may be cited as "Parking Tax Enhancement Act of 2011".

**Effective date.** — For effective date of § 201 of D.C. Law 5-113, see Historical and Statutory Notes following § 47-2001.

**Editor's notes.** — Section 8043 of D.C. Law 19-21 provided: "Sec. 8043. This subtitle shall apply as of July 1, 2011; provided, that this subtitle shall apply as of October 1, 2011, if, for fiscal year 2011, the Chief Financial Officer certifies, in his June 2011 Revenue Estimate, that annual revenue will exceed the annual revenue estimate incorporated in the approved financial plan and budget for fiscal year 2011 by an amount sufficient to offset the loss of revenue proceeding from the delay of the applicability date from July 1, 2011 to October 1, 2011."

Section 8124 of D.C. Law 19-21 provided: "Sec. 8124. This subtitle shall apply as of July 1, 2011."

Expiration of §§ 301, 302 and 303 of D.C. Law 10-188: See Historical and Statutory Notes following § 47-2002.02.

Mayor authorized to issue rules: See second paragraph of note to § 47-2601.

Audit of accounts and operation of Authority: See Historical and Statutory Notes following § 47-2002.02.

Expiration of §§ 301, 302 and 303 of D.C. Law 10-188: Section 2(l)(1) of D.C. Law 12-142 provided that § 306(a) of D.C. Law 10-188, providing for the expiration of that act, is repealed. Section 2(l)(2) of D.C. Law 12-142 provided that the subsection shall apply as of February 27, 1997.

Section 903 of D.C. Law 14-307 provided: "Sec. 903. Applicability. Section 902 shall apply as of January 1, 2003."

Section 4 of D.C. Law 16-94 provided that § 2 shall apply as of April 1, 2006.

## CASE NOTES

### ANALYSIS

Due process.  
Equitable remedies.  
Federal immunity.  
Persons subject to or liable for tax.  
Transients.

### Due process.

District of Columbia Sales Tax Act, as applied to purchases made after passage of act under contracts entered into before passage of act, did

not amount to a deprivation of property without due process of law. U.S. Const. Amend. 5. *John McShain, Inc. v. District of Columbia*, 205 F.2d 882, 1953 U.S. App. LEXIS 3847 (C.A.D.C. 1953).

### Equitable remedies.

Taxpayer was not entitled to equitable reduction in interest and penalties for late payment of sales tax on hotel room attrition fees; hotel had adequate legal remedy and rejected may-



or's offer to compromise interest and penalties, and trial court was thus not required to exercise equitable jurisdiction. *Square 345 Ltd. P'ship v. District of Columbia*, 927 A.2d 1020, 2007 D.C. App. LEXIS 264 (2007).

#### **Federal immunity.**

Absent federal contract specifically designating contractor as agent authorized to pledge government's credit or explicitly rendering government directly liable to seller, state sales taxes, exacted from federal government contractors, encounter no court-directed federal immunity shoal. *U.S. Const. Art. 6, cl. 2. United States v. District of Columbia*, 669 F.2d 738, 1981 U.S. App. LEXIS 15960 (C.A.D.C. 1981).

#### **Persons subject to or liable for tax.**

Private contractor, retained by World Bank to provide food services to individuals on Bank's premises, was not immune from District of Columbia sales and use taxes; taxes were not imposed on Bank's "operations and transactions authorized by" Bretton Woods Agreement, and contractor was not instrumentality of Bank, nor would imposing the tax impermissibly intrude on Bank's freedom from local control. *Bretton Woods Agreements Act*, § 11, 22 U.S.C. § 286h; *D.C. Code 1981*, §§ 47-2002(3)(A), 47-2003(a). *International Bank for Reconstruction & Dev. v. District of Columbia*, 171 F.3d 687, 1999 U.S. App. LEXIS 5944 (C.A.D.C. 1999).

District of Columbia was not precluded from taxing sales to federal contractor under regulation exempting sales by contract to which

United States or any instrumentality thereof is party where no contract existed between United States and seller. *United States v. District of Columbia*, 669 F.2d 738, 1981 U.S. App. LEXIS 15960 (C.A.D.C. 1981).

Statute that permits District of Columbia to tax hotel for the privilege of selling certain selected services, including the sale of or charges for any room or rooms, lodgings, or accommodations furnished to a transient does not require the transient to actually exercise his or her right to occupy in order for the service to be taxable. *Square 345 Ltd. P'ship v. District of Columbia*, 927 A.2d 1020, 2007 D.C. App. LEXIS 264 (2007).

#### **Transients.**

Term "transients" in statute imposing sales tax on gross receipts from charges for rooms furnished to transients encompasses persons who have the right to occupy, upon reservation, the rooms set-aside in a room block. *Square 345 Ltd. P'ship v. District of Columbia*, 927 A.2d 1020, 2007 D.C. App. LEXIS 264 (2007).

Hotel rooms for which groups paid attrition fees because group participants failed to make minimum room reservations in block were "furnished to transients" within the meaning of statute imposing sales tax on gross receipts from charges for rooms furnished to transients; participants became "transients" based on exclusive right to occupy the rooms at favorable rates, even though they did not exercise right to occupy rooms. *Square 345 Ltd. P'ship v. District of Columbia*, 927 A.2d 1020, 2007 D.C. App. LEXIS 264 (2007).

## **§ 47-2002.01. Street vendors; minimum sales tax.**

(a) For the purposes of this section, the term:

(1) "Business Beneficial License Holder" means a corporation, limited liability company, partnership, or other business entity that is the beneficial owner of the vending license held by an Employee License Holder.

(2) "Employee License Holder" means an individual street vendor who holds a vending license as an employee, agent, or representative, or for the ultimate benefit, of a corporation, limited liability company, partnership, or other business entity.

(3) "MST" means the minimum sales tax that a street vendor is obligated to pay.

(4) "Street vendor" means a person licensed to vend from a sidewalk, roadway, or other public space under Chapter 1A of Title 37.

(b)(1) Except as provided in subsection (c) or (d) of this section, a street vendor who holds a license, including a temporary license, authorizing the vending of merchandise, food, or services from public space or from door to door who has collected less than \$375 in sales tax for the quarter shall file a return pursuant to § 47-2002 and as required by the Office of the Chief Financial

Officer's Office of Tax and Revenue and remit a \$375 MST payment for the quarter being reported.

(2) A MST payment shall be made in a manner prescribed by the Office of the Chief Financial Officer's Office of Tax and Revenue.

(3) If a MST payment is not timely remitted, the unpaid MST payment shall be considered unpaid sales tax and all sections of this chapter applicable to the collection and assessment of unpaid sales tax and the imposition of interest and penalties shall apply.

(c) Except as provided in subsection (d) of this section, if a street vendor has collected sales tax in excess of \$375 for the quarter being reported, subsection (b) of this section shall not apply and the street vendor shall file a return pursuant to § 47-2002 and as required by the Office of the Chief Financial Officer's Office of Tax and Revenue and remit the full amount of the sales tax collected for the quarter being reported.

(d)(1) Notwithstanding any other provision of this section, if an individual street vendor holds a vending license as an Employee License Holder for a Business Beneficial License Holder, the Employee License Holder shall not be individually responsible for filing a return or remitting an MST under this section. If the Business Beneficial License Holder files a single, consolidated return pursuant to § 47-2002, reporting all sales tax collected by all Employee License Holders who are employed by or otherwise affiliated with the Business Beneficial License Holder, and remitting the full amount of the sales tax due by all such Employee License Holders for the quarter being reported, the return shall report the vending license number of each vending license held by an Employee License Holder for which information is included in the return.

(2) The Business Beneficial License Holder shall be responsible for maintaining all books and records of the sales made by its employee street vendors pursuant to § 47-4311.

(3) A consolidated sales tax filing shall be filed electronically in the manner prescribed by the Office of Tax and Revenue.

(May 27, 1949, 63 Stat. 112, ch. 146, title I, § 125, as Sept. 30, 1993, D.C. Law 10-25, § 111(f), 40 DCR 5489; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Oct. 22, 2009, D.C. Law 18-71, § 12(c)(1), 56 DCR 6619; July 13, 2012, D.C. Law 19-149, § 2(a)(2), 59 DCR 5129.)

**Section references.** — This section is referred to in §§ 47-2003, 47-2004, and 47-2762.

**Prior Codifications.** — 1981 Ed., § 47-2002.1.

**Effect of amendments.** — D.C. Law 18-71 rewrote subsec. (a); in subsec. (b)(2), substituted "license authorizing the vending of merchandise, food, or services from public space or from door to door, including a temporary license" for "Class A license, Class B license, Class C nonfood license, Class C food license, or any combination of these licenses"; and repealed subsec. (b)(4).

D.C. Law 19-149 rewrote the section.

**Temporary Amendment of Section.** —

Section 11(c)(1) of D.C. Law 17-172 rewrote subsec. (a) to read as follows:

"(a) For the purposes of this section, the term "street vendor" means a person licensed to vend from a sidewalk, roadway, or other public space under the Vending Regulation Temporary Act of 2008, passed on 2nd reading on April 1, 2008 (Enrolled version of Bill 17-653)."; and, in subsec. (b), substituted "license authorizing the vending of merchandise, food, or services from public space or from door to door, including a temporary license," for "Class A license, Class B license, Class C nonfood license, Class C food license, or any combination of these licenses" in par. (2), and repealed par. (4).



Section 13(b) of D.C. Law 17-172 provided that the act shall expire after 225 days of its having taken effect.

Section 10(c)(1) of D.C. Law 18-4 rewrote subsec. (a) to read as follows:

“(a) For the purposes of this section, the term “street vendor” means a person licensed to vend from a sidewalk, roadway, or other public space on or after March 19, 2008.”; and, in subsec. (b), substituted “license authorizing the vending of merchandise, food, or services from public space or from door to door, including a temporary license,” for “Class A license, Class B license, Class C nonfood license, Class C food license, or any combination of these licenses” in par. (2), and repealed par. (4).

Section 12(b) of D.C. Law 18-4 provided that the act shall expire after 225 days of its having taken effect.

**Temporary Addition of Section.** — For temporary (225 day) continuation of non-food open air retailing at Eastern Market, see § 2 of Eastern Market Open Air Retailing Temporary Act of 1998 (D.C. Law 12-133, July 24, 1998, law notification 45 DCR 6504).

For temporary (225 day) continuation of non-food open air retailing at Eastern Market, see § 2 of Eastern Market Open Air Retailing Second Temporary Act of 1998 (D.C. Law 12-150, September 18, 1998, law notification 45 DCR 6947).

For temporary (225 day) addition of section, see § 111(f) of Omnibus Budget Support Temporary Act of 1993 (D.C. Law 10-11, August 6, 1993, law notification 40 DCR 6213).

**Emergency legislation.** — For temporary permission, on an emergency basis, for the interim continuation of non-food open air retailing in the exterior space at Eastern Market, see §§ 2 and 3 of the Eastern Market Open Air Retailing Emergency Act of 1998 (D.C. Act 12-320, April 6, 1998, 45 DCR 2296), §§ 2 and 3 of the Eastern Market Open Air Retailing Second Emergency Act of 1998 (D.C. Act 12-352, May 12, 1998, 45 DCR 3104), and §§ 2 and 3 of the Eastern Market Open Air Retailing Congressional Review Emergency Act of 1998 (D.C. Act 12-435, August 7, 1998, 45 DCR 5951).

For temporary repeal of the Eastern Market Open Air Retailing Emergency Act of 1998 (D.C. Act 12-320), see § 4(a) of the Eastern Market Open Air Retailing Second Emergency Act of 1998 (D.C. Act 12-352, May 12, 1998, 45 DCR 3104).

For temporary repeal of the Eastern Market Open Air Retailing Temporary Act of 1998 (Bill

12-513), see § 4(b) of the Eastern Market Open Air Retailing Second Emergency Act of 1998 (D.C. Act 12-352, May 12, 1998, 45 DCR 3104).

For temporary (90-day) authorization of open air retailing, see §§ 2 and 3 of the Eastern Market Open Air Retailing Emergency Act of 1999 (D.C. Act 13-54, April 6, 1999, 46 DCR 3648).

For temporary (90 day) amendment of section, see § 10(c)(1) of Vending Regulation Emergency Act of 2008 (D.C. Act 17-322, March 19, 2008, 55 DCR 3445).

For temporary (90 day) amendment of section, see § 10(c)(1) of Vending Regulation Emergency Act of 2009 (D.C. Act 18-9, January 29, 2009, 56 DCR 1638).

For temporary (90 day) amendment of section, see § 10(c)(1) of Vending Regulation Congressional Review Emergency Act of 2009 (D.C. Act 18-47, April 27, 2009, 56 DCR 3574).

**Legislative history of Law 10-25.** — Law 10-25, the “Omnibus Budget Support Act of 1993,” was introduced in Council and assigned Bill No. 10-165, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 1, 1993, and June 29, 1993, respectively. Signed by the Mayor on July 16, 1993, it was assigned Act No. 10-57 and transmitted to both Houses of Congress for its review. D.C. Law 10-25 became effective on September 30, 1993.

**Legislative history of Law 18-71.** — Law 18-71, the “Vending Regulation Act of 2009,” as introduced in Council and assigned Bill No. 18-257, which was referred to the Committee on Public Services and Consumer Affairs. The bill was adopted on first and second readings on June 30, 2009, and July 14, 2009, respectively. Signed by the Mayor on July 28, 2009, it was assigned Act No. 18-167 and transmitted to both Houses of Congress for its review. D.C. Law 18-71 became effective on October 22, 2009.

**Legislative history of Law 19-149.** — Law 19-149, the “Vendor Sales Tax Collection and Remittance Act of 2012,” was introduced in Council and assigned Bill No. 19-163, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 17, 2012, and May 1, 2012, respectively. Signed by the Mayor on May 11, 2012, it was assigned Act No. 19-355 and transmitted to both Houses of Congress for its review. D.C. Law 19-149 became effective on July 13, 2012.

**Editor’s notes.** — Section 3 of D.C. Law 19-149 provided: “Sec. 3. Applicability. This act shall apply as of October 1, 2012.”



**§ 47-2002.02. Tax on gross receipts for transient lodgings or accommodations; food or drink for immediate consumption; spirits sold for consumption on premises; rental vehicles.**

A tax, separate from, and in addition to, the tax imposed pursuant to § 47-2002, is imposed on vendors engaging in the business activities listed in paragraphs (1) and (2) of this section for the privilege of selling at retail certain tangible personal property and for the privilege of selling certain selected services (defined as “retail sales” and “sale at retail” pursuant to § 47-2001(n)(1)). The rate of the tax shall be:

(1)(A) 4.45% of the gross receipts for the sale or charges for any room or rooms, lodgings, or accommodations furnished to a transient by any hotel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients; and

(B) If the occupancy of a room or rooms, lodgings, or accommodations is reserved, booked, or otherwise arranged for by a room remarketer, the tax imposed by this paragraph shall be determined based on the net charges and additional charges received by the room remarketer.

(2) 1% of the gross receipts from the sale or charges made for:

(A) Food or drink prepared for immediate consumption, or sold as described in § 47-2001(n)(1)(A);

(B) Spiritous or malt liquors, beers, and wine sold for consumption on the premises where sold; or

(C) Rental or leasing of rental vehicles and utility trailers as defined in § 50-1505.01(8) and (9).

(May 27, 1949, 63 Stat. 112, ch. 146, title I, § 125a, as added Sept. 28, 1994, D.C. Law 10-188, § 302(b), 41 DCR 5333; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 12, 1998, D.C. Law 12-142, § 3(d), 45 DCR 4826; Apr. 8, 2011, D.C. Law 18-364, § 2(c), 58 DCR 976; Sept. 14, 2011, D.C. Law 19-21, § 7002(a)(3), 58 DCR 6226.)

**Cross references.** — Washington Convention Center Authority, audit of accounts and operations, certification of sufficiency of sum of projected revenues, surtax, see § 10-1203.05.

Washington Convention Center Authority, collection and transfer of taxes to Fund, see § 10-1203.07.

Washington Convention Center Authority, “dedicated taxes” defined, see § 10-1202.01.

Washington Convention Center Authority, Marketing Fund established, marketing service contracts, total dollar amount, see § 10-1202.08a.

**Prior Codifications.** — 1981 Ed., § 47-2002.2.

1981 Ed., § 47-2002.2.

**Effect of amendments.** — D.C. Law 18-364 designated the existing text of par. (1) as par. (1)(A); and added par. (1)(B).

D.C. Law 19-21, in par. (1)(B), substituted

“net charges and additional charges received by the room remarketer” for “net sale or net charges received from the transient by the room remarketer”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 7002(a)(3) of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 10-188.** — Law 10-188, the “Washington Convention Center Authority Act of 1994,” was introduced in Council and assigned Bill No. 10-527, which was referred to the Committee on Economic Development and Sequential to the Committee of the Whole. The Bill was adopted on first and second readings on July 5, 1994, and July 19, 1994, respectively. Signed by the Mayor on August 2, 1994, it was assigned Act No. 10-314 and transmitted to both Houses of Congress for its re-

view. D.C. Law 10-188 became effective on September 28, 1994.

**Legislative history of Law 12-142.** — For legislative history of D.C. Law 12-142, see Historical and Statutory Notes following § 47-2002.

**Legislative history of Law 18-364.** — For history of Law 18-364, see notes under § 47-2001.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 47-305.02.

**Editor's notes.** — Expiration of §§ 301, 302 and 303 of D.C. Law 10-188: Section 306(a) of D.C. Law 10-188 provided that the act shall expire 2 years after September 28, 1994 if the Board does not submit final financial requirements and a feasibility analysis to the mayor and the Council as provided by § 10-1202.06(h).

Expiration of §§ 301, 302 and 303 of D.C. Law 10-188: For temporary amendment of D.C. Law 10-188, § 306(a), see § 2(b) of the Washington Convention Center Authority Act of 1994 Time Extension Emergency Act of 1996 (D.C. Act 11-509).

Audit of accounts and operation of Authority: Section 305(a) of D.C. Law 10-188 provided that "on or before July 1 of each year, the District of Columbia Auditor, pursuant to the

Auditor's duties under § 47-117(b), shall audit the accounts and operation of the Authority and made a specific finding of the sufficiency of the projected revenues from the taxes imposed pursuant to §§ 301, 302, 303, and 304 to meet the projected expenditures and reserve requirements of the Authority for the upcoming fiscal year."

Section 305(b) of D.C. Law 10-188 provided: "If the audit conducted pursuant to subsection (a) of this section indicates that projected revenues from the taxes imposed pursuant to §§ 301, 302, 303, and 304 are insufficient to meet projected expenditures and reserve requirements of the Authority for the upcoming fiscal year, the Mayor shall impose a surtax, to become effective on or before October 1 of the upcoming year, on each of those taxes dedicated to the Authority excluding the tax on sales of restaurant meals and alcoholic beverages, in an amount equal to the pro rata share of the difference between (1) the sum of the projected expenditure and reserve requirements and (2) the projected revenues. The pro rata share shall be determined based on the pro rata estimated contribution of each tax to the total estimated tax revenue for the particular year as contained in the multiyear financial plan submitted pursuant to § 9-807(g) § 10-1202.06(g), 2001 Ed. ."

### **§ 47-2002.03. Tax on gross receipts for transient lodgings or accommodations; food or drink for immediate consumption; spirits sold for consumption on premises; rental vehicles — Collection of tax and transfer to Washington Convention and Sports Authority.**

(a) The Mayor shall collect and deposit in a lockbox maintained by the Chief Financial Officer of the District of Columbia the tax imposed pursuant to § 47-2002.02 as agent on behalf of the Washington Convention and Sports Authority ("Authority") and shall transfer the revenue from the tax upon receipt to the Washington Convention Center Fund established pursuant to § 10-1202.08.

(b) The Mayor shall develop and apply a fixed formula to the taxes imposed pursuant to §§ 47-2002 and 47-2002.02 to determine the amount that shall be transferred to the Authority.

(May 27, 1949, 63 Stat. 112, ch. 146, title I, § 125b, as added Sept. 28, 1994, D.C. Law 10-188, § 302(b), 41 DCR 5333; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Mar. 24, 1998, D.C. Law 12-81, § 59(g), 45 DCR 745; Sept. 18, 1998, D.C. Law 12-142, § 3(e), 45 DCR 4826; Oct. 19, 2002, D.C. Law 14-213, § 33(v), 49 DCR 8140; Mar. 3, 2010, D.C. Law 18-111, § 2082(o)(2)(B), 57 DCR 181.)



**Cross references.** — Washington Convention Center Authority, audit of accounts and operations, certification of sufficiency of sum of projected revenues, see § 10-1203.05.

Washington Convention Center Authority, collection and transfer of taxes to Fund, see § 10-1203.07.

**Prior Codifications.** — 1981 Ed., § 47-2002.3.

**Effect of amendments.** — D.C. Law 14-213, in the section heading, validated a previously made technical correction.

D.C. Law 18-111, in the section heading, substituted “Washington Convention and Sports Authority” for “Washington Convention Center Authority”; and, in subsec. (a), substituted “Washington Convention and Sports Authority (‘Authority’)” for “Washington Convention Center Authority” and substituted “Washington Convention Center Fund” for “Washington Convention Center Authority Fund”.

**Emergency legislation.** — For temporary amendment of section, see § 3 of the Natural and Artificial Gas Gross Receipts Tax Emergency Amendment Act of 1996 (D.C. Act 11-508), and see § 3 of the Natural and Artificial Gas Gross Receipts Tax Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-51, March 31, 1997, 44 DCR 2201).

For temporary amendment of section, see § 2(a) of the Natural and Artificial Gas Gross Receipts Tax Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-304, March 20, 1998, 45 DCR 1898).

For temporary (90 day) amendment of section, see § 2082(o)(2)(B) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2082(o)(2)(B) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 10-188.** — For legislative history of D.C. Law 10-188, see Historical and Statutory Notes following § 47-2002.02.

**Legislative history of Law 12-81.** — Law 12-81, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

**Legislative history of Law 12-142.** — For legislative history of D.C. Law 12-142, see Historical and Statutory Notes following § 47-2002.02.

**Legislative history of Law 14-213.** — For Law 14-213, see notes following § 47-820.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-305.02.

**Editor’s notes.** — Expiration of §§ 301, 302 and 303 of D.C. Law 10-188: See Historical and Statutory Notes following § 47-2002.02.

Audit of accounts and operation of Authority: See Historical and Statutory Notes following § 47-2002.02.

Expiration of §§ 301, 302, and 303 of D.C. Law 10-188: Section 2(l)(1) of D.C. Law 12-142 provided that § 306(a) of D.C. Law 10-188, providing for the expiration of that act, is repealed. Section 2(l)(2) of D.C. Law 12-142 provided that the subsection shall apply as of February 27, 1997.

## § 47-2002.04. Special event promoter obligations and penalties.

(a) A promoter of a special event shall submit to the Mayor:

(1) At least 30 days before the beginning of a special event, a preliminary list of all vendors and exhibitors, including their names, addresses, representatives, and telephone numbers; and

(2) Within 10 days after the last day of a special event, a final list of all vendors and exhibitors, including their names, addresses, representatives, and telephone numbers, if not previously provided.

(b) Before the special event, a promoter shall provide to vendors and exhibitors such information regarding their District tax obligations, filing deadlines, and other such requirements as is supplied by the District after the preliminary list of vendors and exhibitors is submitted in accordance with subsection (a)(1) of this section.



(c) A promoter shall provide access to the Mayor to the special event premises and activities to monitor vendor and exhibitor sales.

(d) A promoter who fails to submit the preliminary vendor and exhibitor list in accordance with subsection (a)(1) of this section shall pay a penalty in the amount of \$1,000, plus \$50 for each day the list is late, which penalty shall not exceed \$2,500.

(e) A promoter who fails to submit the final vendor and exhibitor list in accordance with subsection (a)(2) of this section shall pay a penalty in the amount of \$1,000, plus \$50 for each day the list is late, which penalty shall not exceed \$10,000.

(f) For the purposes of this section, the term “promoter” means a person who arranges, organizes, or sponsors vendors or exhibitors engaged in the business of retail sales (as defined in this chapter) to participate in a special event. The term “promoter” includes for-profit and nonprofit persons.

(June 9, 2001, D.C. Law 13-305, § 102(b)(2), 48 DCR 334; Oct. 19, 2002, D.C. Law 14-213, § 33(w), 49 DCR 8140.)

**Effect of amendments.** — D.C. Law 14-213, in the section heading, validated a previously made technical correction.

**Emergency legislation.** — For temporary (90 day) addition, see § 101 of Ballpark Omnibus Financing and Revenue Tax Provisions Emergency Amendment Act of 2004 (D.C. Act 15-719, January 4, 2005, 52 DCR 1790).

For temporary (90 day) addition, see § 101 of Ballpark Omnibus Financing and Revenue Tax Provisions Congressional Review Emergency

Act of 2005 (D.C. Act 16-25, February 17, 2005, 52 DCR 2981).

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Legislative history of Law 14-213.** — For Law 14-213, see notes following § 47-820.

**Editor’s notes.** — Section 103 of D.C. Law 13-305 provided: “Sec. 103. Applicability. Section 102(a) through (c) shall apply beginning April 1, 2001. Section 102(d) shall apply beginning October 1, 2001.”

## § 47-2002.05. Ballpark sales taxes.

(a) For the purposes of this section, the term:

(1) “Ballpark” means:

(A) A stadium constructed after October 1, 2004 to be owned by the District on a site bounded by N Street, S.E., Potomac Avenue, S.E., South Capitol Street, S.E., and 1st Street, S.E., or such other site determined pursuant to [§ 10-1601.05], if the primary site shall be infeasible, including facilities functionally related and subordinate thereto and the accompanying infrastructure, including office and transportation facilities (including parking) adjacent to or serving the stadium, that has as its primary purpose the hosting of professional athletic team events and is constructed in whole or in part with funds deposited in, or bonds or other evidence of indebtedness the debt service upon which is financed in whole or in part by monies deposited in, the Ballpark Revenue Fund; and

(B) Until such time as the hosting of professional athletic team events for which tickets are sold has commenced at the newly-constructed stadium, Robert F. Kennedy Stadium, described as that geographic area of the District of Columbia consisting of the areas designated as A, B, C, D, or E on the revised map entitled “Map to Designate Transfer of Stadium and Lease of Parking Lots to the District,” prepared jointly by the National Park Service (National

Capital Region) and the District of Columbia Department of Public Works for site development and dated October 1986 (NPS Drawing number 831/87284-A), and any other future additions thereto.

(2) "Ballpark Revenue Fund" means the fund established by [§ 10-1601.02].

(3) "Professional athletic team" includes any professional baseball, basketball, football, soccer, hockey, lacrosse, or other athletic team whose members receive financial compensation from their participation in the team's athletic exhibitions.

(4) "Ticket" means any physical, electronic, or other form of a certificate, documents, or token showing that a fare, admission, or license fee for a revocable right to enter the ballpark, or a right to purchase future rights to enter the ballpark, has been paid.

(b) Notwithstanding any other provision of this chapter relating to the imposition of sales tax on either a retail sale or a sale at retail, there is hereby imposed an additional sales tax of 4.25% on the gross receipts of any person from the sale of tickets to any public event referred to in § 47-2001(n)(1)(H) sponsored by the person (or any affiliate of such person) and to be performed at the ballpark, regardless of whether the ticket is sold to a person who resells the ticket to another person or to a person who uses the ticket for admission to the event; provided, that with respect to tickets to events at Robert F. Kennedy Stadium, the tax shall apply only to professional baseball games or professional baseball-related events and exhibitions.

(c) Notwithstanding any other provision of this chapter, there is hereby imposed an additional sales tax of 4.25% on the gross receipts of any person from the sale at the ballpark during such times as shall reasonably relate to the performance of baseball games or baseball-related events and exhibitions at the ballpark of tangible personal property or services otherwise taxable under the provisions of this chapter, except the gross receipts from (1) sales of food and beverages subject to the tax imposed by § 47-2002(3), and (2) the sale of or charge for the service of parking motor vehicles; provided, that with respect to the sale of tangible personal property or services at Robert F. Kennedy Stadium, the additional tax shall apply only to professional baseball games or professional baseball-related events and exhibitions.

(d) The following revenues shall be deposited into one or more accounts within the Ballpark Revenue Fund:

(1) The revenues received by the District of Columbia from the taxes imposed by this section;

(2) The portion of the sales tax imposed by § 47-2002 on the gross receipts of any person from the sale of tickets to any public event referred to in § 47-2001(n)(1)(H) sponsored by the person (or any affiliate of such person) and to be performed at the ballpark, regardless of whether any such ticket is sold to a person who resells the ticket to another person or to a person who uses the ticket for admission to the event, except that, with respect to events at Robert F. Kennedy Stadium, only the portion of the tax levied on professional baseball games or professional baseball-related events and exhibitions;

(3) The portion of the sales tax imposed by § 47-2002 on the gross receipts of any person from the sale at the ballpark during such times as shall



reasonably relate to the performance of baseball games or baseball-related events and exhibitions at the ballpark of tangible personal property or services otherwise taxable, except as otherwise provided in § 10-1203.07; and

(4) The portion of the sales tax imposed on the gross receipts from the sale of or charge for the service of parking motor vehicles that shall reasonably relate to the performance of baseball games or professional baseball related events and exhibitions at the ballpark.

(e) The Chief Financial Officer or his delegate shall promulgate regulations as may be necessary and appropriate to carry out the provisions of this section, including regulations relating to the determination of District gross receipts and electronic filing and payment of sales taxes and fees. Until such time as the Chief Financial Officer or his delegate shall promulgate the regulations, any promoter of any event at which gross receipts from the sale of tickets, tangible personal property, or services are potentially subject to the taxes imposed by this section shall comply with the requirements of § 47-2002.04 as if the event were a special event.

(Apr. 8, 2005, D.C. Law 15-320, § 110(d)(2), 52 DCR 1757.)

**Emergency legislation.** — For temporary (90 day) addition, see § 201(b) of Ballpark Omnibus Financing and Revenue Tax Provisions Emergency Amendment Act of 2004 (D.C. Act 15-719, January 4, 2005, 52 DCR 1790).

For temporary (90 day) addition, see § 201(b)

of Ballpark Omnibus Financing and Revenue Tax Provisions Congressional Review Emergency Act of 2005 (D.C. Act 16-25, February 17, 2005, 52 DCR 2981).

**Legislative history of Law 15-320.** — For Law 15-320, see notes following § 47-368.03.

## § 47-2002.06. Verizon Center sales taxes.

(a) For the purposes of this section, the term:

(1) “Bond Act” means the Verizon Center Sales Tax Revenue Bond Approval Act of 2007, [effective July 12, 2007, (D.C. Law 17-12; 54 DCR 5151)].

(2) “Ticket” means any physical, electronic, or other form of a certificate, document, or token showing that a fare, admission, or license fee for a revocable right to enter the Verizon Center, or a right to purchase future rights to enter the Verizon Center, has been paid.

(3) “Verizon Center” means the facility located at 601 F Street, N.W., Washington, D.C., described as Square 455, Lot 47, as shown on the tax rolls of the District maintained by the Office of Tax and Revenue.

(b)(1) Notwithstanding any other provision of this chapter relating to the imposition of sales tax on either a retail sale or a sale at retail, there is imposed an additional sales tax of 4.25% on the gross receipts of any person from the sale:

(A) At the Verizon Center of tangible personal property or services otherwise taxable, except:

(i) The sale of food and beverages subject to the tax imposed by § 47-2002(3);

(ii) The sale or charge for the services of parking motor vehicles subject to the tax imposed by § 47-2002(1); and

(iii) The sale of tangible personal property or services by the following businesses:



- (I) Urban Adventures at Gallery Place, LLC (doing business as Vida Fitness);
- (II) Urban Salon, Inc. (doing business as Bang Salon); and
- (III) Shimba Hills Coffee, Inc. (doing business as Shimba Hills Coffee); and

(B) Of tickets to any public event referred to in § 47-2001(n)(1)(H) sponsored by the person (or any affiliate of such person) and to be performed at the Verizon Center, regardless of whether the ticket is sold to a person who resells the ticket to another person or to a person who uses the ticket for admission to the event.

(2) The revenues received by the District of Columbia from the taxes imposed by this section shall be deposited into the Verizon Center Fund established by the Bond Act [see § 2-1232].

(c) The Chief Financial Officer shall promulgate regulations as may be necessary or appropriate to carry out the provisions of this section, including regulations relating to the determination of District gross receipts and electronic filing and payment of sales taxes and fees.

(d) This section shall apply on the 1st day of the month that is at least 30 days (excluding Saturdays, Sundays, and holidays) after the issuance of the bonds authorized by the Bond Act [see §§ 2-1233 and 2-1234] and shall expire on the 1st day of the month after the date that the bonds authorized by the Bond Act have been paid in full [see § 2-1237].

(July 12, 2007, D.C. Law 17-12, § 16(b), 54 DCR 5151.)

**Emergency legislation.** — For temporary (90 day) addition of § 47-2002.07, see § 625(b)(2) of Fiscal Year 2011 Supplemental Budget Support Emergency Act of 2010 (D.C. Act 18-694, January 19, 2011, 58 DCR 662).

**Legislative history of Law 17-12.** — Law 17-12, the “Verizon Center Sales Tax Revenue Bond Approval Act of 2007”, was introduced in Council and assigned Bill No. 17-117 which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 3, 2007, and April 19, 2007, respectively. Signed by the Mayor on May 4, 2007, it was assigned Act No. 17-41 and transmitted to both Houses of Congress for its review. D.C. Law 17-12 became effective on July 12, 2007.

**Editor’s notes.** — Sections 2 to 15 of D.C. Law 17-12 provided:

“Sec. 2. Definitions.

“For the purposes of this act, the term:

“(1) ‘Authorized Delegate’ means the Chief Financial Officer, the Deputy Mayor for Planning and Economic Development, or any officer or employee of the Executive Office of the Mayor to whom the Mayor has delegated, or to whom the foregoing individuals have subdelegated, any of the Mayor’s functions under this act pursuant to section 422(6) of the Home Rule Act.

“(2) ‘Available Increment’ shall have the same meaning as set forth in the Reserve Agreement.

“(3) ‘Bond Counsel’ means a firm or firms of attorneys designated as District bond counsel from time to time by the Mayor.

“(4) ‘Bond Funded Expenditures’ shall mean the actual or proposed expenditure of funds, raised from the issuance of the bonds, or any interest accrued from the deposit of proceeds of the issuance of the bonds, upon the project.

“(5) ‘Bonds’ means the District of Columbia revenue bonds, notes, or other obligations (including refunding bonds, notes, and other obligations), in one or more series, authorized to be issued pursuant to this act.

“(6) ‘Chief Financial Officer’ means the Chief Financial Officer of the District of Columbia.

“(7) ‘Closing Documents’ means all documents and agreements, other than Financing Documents, that may be necessary and appropriate to issue, sell, and deliver the bonds, and includes agreements, certificates, letters, opinions, forms, receipts, and other similar instruments.

“(8) ‘Development Plan’ shall mean an account of the proposed Bond Funded Expenditures on the project, submitted to the Mayor for review, which shall contain, at a minimum, the following information:

“(A) A specific period covered by the Develop-

ment Plan, with specific beginning and ending dates;

“(B) The total amount of any planned Bond Funded Expenditures during the period specified in the Development Plan; and

“(C) A breakdown of the planned Bond Fund Expenditures by expenditure type, with sufficient detail to determine the suitability of the proposed expenditures.

“(9) ‘Financing Documents’ means the documents, other than Closing Documents, that relate to the financing or refinancing of transactions to be effected through the issuance, sale, and delivery of the bonds and the making of the loan, including any offering document, and any required supplements to any such documents.

“(10) ‘Home Rule Act’ means the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 774; D.C. Official Code § 1-201.01 et seq.).

“(11) ‘Issuance Costs’ means all fees, costs, charges, and expenses paid or incurred in connection with the authorization, preparation, printing, issuance, sale, and delivery of the bonds, including, but not limited to, underwriting, legal, accounting, rating agency, and all other fees, costs, charges, and expenses incurred in connection with the development and implementation of the Financing Documents, the Closing Documents, and those other documents necessary or appropriate in connection with the authorization, preparation, printing, issuance, sale, marketing, and delivery of the bonds, together with financing fees, costs, and expenses, including fees paid to financial institutions and insurance companies, initial letter of credit fees, and compensation to financial advisors and other persons (other than full-time employees of the District) and entities performing services on behalf of or as agents for the District.

“(12) ‘Project’ means the financing, refinancing, or reimbursing of costs incurred for the construction, installation and equipping of renovations to, and refurbishment of, the Verizon Center, including Issuance Costs, capitalized interest, and reserves.

“(13) ‘Reserve Agreement’ means that certain Reserve Agreement, dated as of April 1, 2002, by and among the District, Wells Fargo Bank Minnesota, N.A., and Financial Security Assurance, Inc.

“(14) ‘Verizon Center’ has the same meaning as in D.C. Official Code § 47-2002.06(a)(3).

“Sec. 3. Creation of Verizon Center Fund.

“(a) There is established within the General Fund of the District of Columbia a special nonlapsing account to be denominated as the ‘Verizon Center Fund.’ The Chief Financial Officer shall pay into the Verizon Center Fund all receipts from those taxes and fees specifically identified by any provision of District of Colum-

bia law to be paid into the fund. The Chief Financial Officer shall create a sub-account within the Verizon Center Fund for each type of tax and fee that is to be paid into the fund and shall allocate the receipts from each type of tax and fee to the appropriate sub-account. The Mayor may pledge and create a security interest in the funds in the Verizon Center Fund, or any sub-account or sub-accounts within the fund for the payment of the debt service on the bonds.

“(b) If, at the end of any fiscal year of the District, the balance of cash and investments in the Verizon Center Fund exceeds the amount of debt service (including prepayment of principal and interest) and reserves on the bonds during the upcoming fiscal year, the excess shall be transferred to the unrestricted balance of the General Fund of the District of Columbia.

“Sec. 4. Bond authorization.

“(a) The Council authorizes and approves the issuance of bonds in one or more series in an aggregate principal amount not to exceed \$50 million for payment of the costs of the project. There is allocated to the bonds the funds in the Verizon Center Fund or such portion of the funds as shall be determined in accordance with the terms of the bonds for the payment of debt service on the bonds.

“(b) The bonds shall be tax-exempt or taxable as the Mayor shall determine and shall be payable solely from, and secured by, funds deposited in the Verizon Center Fund.

“(c) The Mayor is authorized to pay from the proceeds of the bonds the costs and expenses of issuing and delivering the bonds, including, but not limited to, underwriting, legal, accounting, financial advisory, bond insurance or other credit enhancement, marketing, and printing costs and expenses.

“Sec. 5. Bond details.

“(a) The Mayor is authorized to take any action reasonably necessary or appropriate in accordance with this act in connection with the preparation, execution, issuance, sale, delivery, security for, and payment of the bonds of each series, including, but not limited to, determinations of:

“(1) The final form, content, designation, and terms of the bonds, including a determination that the bonds may be issued in certificated or book-entry form;

“(2) The principal amount of the bonds to be issued and denominations of the bonds;

“(3) The rate or rates of interest or the method for determining the rate or rate of interest on the bonds;

“(4) The date or dates of issuance, sale, and delivery of the bonds, and the maturity date or dates of the bonds;

“(5) The terms under which the bonds may be paid, optionally or mandatorily redeemed, accelerated, tendered, called, or put for redemp-



tion, repurchase, or remarketing before their respective stated maturities;

“(6) Provisions for the registration, transfer, and exchange of the bonds and the replacement of mutilated, lost, stolen, or destroyed bonds;

“(7) The creation of any reserve fund, sinking fund, or other fund with respect to the bonds;

“(8) The time and place of payment of the bonds;

“(9) Actions necessary to qualify the bonds under blue sky laws of any jurisdiction where the bonds are marketed; and

“(10) The terms and types of any credit enhancement under which the bonds may be secured.

“(b) The bonds shall contain a legend, which shall provide that the bonds are special obligations of the District, are not general obligations of the District, are not a pledge of, and do not involve the faith and credit or the taxing power of the District (other than the taxes and fees deposited into the Verizon Center Fund or the Available Increment), do not constitute a debt of the District, and do not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

“(c) The bonds shall be executed in the name of the District and on its behalf by the manual or facsimile signature of the Mayor, and attested by the Secretary of the District of Columbia by the Secretary’s manual or facsimile signature. The Mayor’s execution and delivery of the bonds shall constitute conclusive evidence of the Mayor’s approval, on behalf of the District, of the final form and content of the bonds.

“(d) The official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the bonds.

“(e) The bonds of any series may be issued in accordance with the terms of a trust instrument to be entered into by the District and a trustee and may be subject to the terms of one or more agreements entered into by the Mayor pursuant to section 490(a)(4) of the Home Rule Act.

“(f) The bonds may be issued at any time or from time to time in one or more issues and in one or more series.

“(g) The bonds are declared to be issued for essential public and governmental purposes. The bonds and the interest thereon and the income therefrom, and all funds pledged or available to pay or secure the payment of the bonds, shall at all times be exempt from taxation by the District, except for estate, inheritance, and gift taxes.

“(h) The District does pledge and covenant and agree with the holders of the bonds that, subject to the provisions of the Financing Documents, the District will not limit or alter the revenues pledged to secure the bonds or the basis on which such revenues are collected or

allocated, will not impair the contractual obligations of the District to fulfill the terms of any agreement made with the holders of the bonds, will not in any way impair the rights or remedies of the holders of the bonds, and will not modify in any way, with respect to the bonds, the exemption from taxation provided for in this act, until the bonds, together with interest thereon, with interest on any unpaid installment of interest and all costs and expenses in connection with any suit, action, or proceeding by or on behalf of the holders of the bonds, are fully met and discharged. This pledge and agreement for the District may be included as part of the contract with the holders of the bonds. This subsection shall constitute a contract between the District and the holders of the bonds. To the extent that any acts or resolutions of the Council may be in conflict with this act, this act shall be controlling.

“(i) Consistent with section 490(a)(4)(B) of the Home Rule Act and notwithstanding Chapter 9 of Title 28 of the District of Columbia Official Code:

“(1) A pledge made and security interest created in respect of the bonds or pursuant to any related Financing Document shall be valid, binding, and perfected from the time the security interest is created, with or without physical delivery of any funds or any property and with or without any further action.

“(2) The lien of the pledge shall be valid, binding, and perfected as against all parties having any claim of any kind in tort, contract, or otherwise against the District, whether or not such party has notice.

“(3) The security interest shall be valid, binding, and perfected whether or not any statement, document, or instrument relating to the security interest is recorded or filed.

“Sec. 6. Development Plan requirement.

“(a) The entity responsible for identifying spending priorities for the project shall submit a Development Plan to the Mayor no fewer than 90 days prior to the beginning of the period covered by the Development Plan.

“(b) The Mayor shall have 30 days to review the Development Plan. If, after 30 days, the Mayor has not approved or disapproved the Development Plan, the Development Plan shall be deemed approved.

“(c) No Bond Funded Expenditures shall be permitted without an approved Development Plan.

“Sec. 7. Sale of the bonds.

“(a) The bonds of any series may be sold at negotiated or competitive sale at, above, or below par, to one or more persons or entities, and upon terms that the Mayor considers to be in the best interests of the District.

“(b) The Mayor or an Authorized Delegate may execute, in connection with each sale of the bonds, offering documents on behalf of the



District, may deem final any such offering document on behalf of the District for purposes of compliance with federal laws and regulations governing such matters, and may authorize the distribution of the documents in connection with the sale of the bonds.

“(c) The Mayor is authorized to deliver the executed and sealed bonds, on behalf of the District, for authentication, and, after the bonds have been authenticated, to deliver the bonds to the original purchasers of the bonds upon payment of the purchase price.

“(d) The bonds shall not be issued until the Mayor receives an approving opinion from Bond Counsel as to the validity of the bonds.

“(e) The District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85; D.C. Official Code § 2-301.01 et seq.), and subchapter III-A of Chapter 3 of Title 47 of the District of Columbia Official Code shall not apply to any contract the Mayor may from time to time enter into, or the Mayor may determine to be necessary or appropriate, for purposes of this act.

“Sec. 8. Payment and security.

“(a) Except as may be otherwise provided in this act, the principal of, premium, if any, and interest on, the bonds shall be payable solely from proceeds received from the sale of the bonds, income realized from the temporary investment of those proceeds, receipts, and revenues deposited in the Verizon Center Fund, income realized from the temporary investment of those receipts and revenues prior to payment to the bond owners, other moneys that, as provided in the Financing Documents, may be made available to the District for the payment of the bonds, and other sources of payment (other than the District), all as provided for in the Financing Documents.

“(b) There is further allocated to the payment of debt service on the bonds (and the funding of reserves for such purposes) the Available Increment, subordinate to the allocation of the Available Increment to the Budgeted Reserve, as defined in the Reserve Agreement, all as more fully described in the Reserve Agreement, to be used for the payment of debt service on the bonds (and the funding of reserves for such purpose) to the extent that the revenues allocated in subsection (a) of this section are inadequate to pay debt service on (and the funding of reserves for) the bonds. The termination date for the allocation of the Available Increment authorized by this subsection shall be the earlier of:

“(1) The final maturity date of the bonds; or

“(2) The date on which all of the bonds are paid or provided for and are no longer outstanding pursuant to their terms.

“(c) Payment of the bonds shall be secured as provided in the Financing Documents and by an assignment by the District for the benefit of

the bond owners of certain of its rights under the Financing Documents and Closing Documents, including a security interest in certain collateral, if any, to the trustee for the bonds pursuant to the Financing Documents.

“(d) The trustee is authorized to deposit, invest, and disburse the proceeds received from the sale of the bonds pursuant to the Financing Documents.

“Sec. 9. Financing and closing documents.

“(a) The Mayor is authorized to prescribe the final form and content of all Financing Documents and all Closing Documents to which the District is a party that may be necessary or appropriate to issue, sell, and deliver the bonds.

“(b) The Mayor is authorized to execute, in the name of the District and on its behalf, the Financing Documents and any Closing Documents to which the District is a party by the Mayor's manual or facsimile signature.

“(c) If required, the official seal of the District, or a facsimile of it, shall be impressed, printed, or otherwise reproduced on the Financing Documents and the Closing Documents to which the District is a party.

“(d) The Mayor's execution and delivery of the Financing Documents and the Closing Documents to which the District is a party shall constitute conclusive evidence of the Mayor's approval, on behalf of the District, of the final form and content of the executed Financing Documents and the executed Closing Documents.

“(e) The Mayor is authorized to deliver the executed and sealed Financing Documents and Closing Documents, on behalf of the District, prior to or simultaneously with the issuance, sale, and delivery of the bonds, and to ensure the due performance of the obligations of the District contained in the executed, sealed, and delivered Financing Documents and Closing Documents.

“(f) The Financing and Closing Documents shall include an agreement by the DC Arena, LP, the owner of the Verizon Center, which agreement shall include the following provisions:

“(1) DC Arena, LP shall annually report to the Chief Financial Officer on the expenditure of the net proceeds realized from the bonds (which proceeds shall include the proceeds from any loan secured by the bonds or the proceeds from the sale of the bonds to a third party by DC Arena, LP) on project costs;

“(2) DC Arena, LP shall apply any unexpended net proceeds (which proceeds shall include the proceeds from any loan secured by the bonds or the proceeds from the sale of the bonds to a third party by DC Arena, LP) to the funding of any required reserves under the terms of the Financing and Closing Documents;

“(3) The earnings on any unexpended net proceeds (which proceeds shall include the proceeds from any loan secured by the bonds or the proceeds from the sale of the bonds to a third party by DC Arena, LP) shall be credited to the debt service of the District on the bonds;

“(4) DC Arena, LP shall exercise its right to extend the Land Disposition Agreement—Ground Lease dated December 29, 1995 for an additional 20 years as provided for under section 5.2 thereof; and

“(5) DC Arena, LP shall waive section 6.3 of the Land Disposition Agreement—Ground Lease dated December 29, 1995, to insure the rent paid by DC Arena, LP to the District is not offset or decreased by the tax imposed by D.C. Official Code § 47-2002.06.

“Sec. 10. Limited liability.

“(a) The bonds shall be special obligations of the District. The bonds shall not be general obligations of the District, shall not be a pledge of or involve the faith and credit or the taxing power of the District (other than the taxes and fees deposited in the Verizon Center Fund or the Available Increment), shall not constitute a debt of the District, and shall not constitute lending of the public credit for private undertakings as prohibited in section 602(a)(2) of the Home Rule Act.

“(b) Nothing contained in the bonds, in the Financing Documents, or in the Closing Documents shall create an obligation on the part of the District to make payments with respect to the bonds from sources other than those listed for that purpose in section 7.

“(c) All covenants, obligations, and agreements of the District contained in this act, the bonds, and the executed, sealed, and delivered Financing Documents and Closing Documents to which the District is a party, shall be considered to be the covenants, obligations, and agreements of the District to the fullest extent authorized by law, and each of those covenants, obligations, and agreements shall be binding upon the District, subject to the limitations set forth in this act.

“(d) No person, including, but not limited to, any bond owner, shall have any claims against the District or any of its elected or appointed officials, officers, employees, or agents for monetary damages suffered as a result of the failure of the District to perform any covenant, undertaking, or obligation under this act, the bonds, the Financing Documents, or the Closing Documents, or as a result of the incorrectness of

any representation in or omission from the Financing Documents or the Closing Documents, unless the District or its elected or appointed officials, officers, employees, or agents have acted in a willful and fraudulent manner.

“Sec. 11. District officials.

“(a) Except as otherwise provided in section 9(d), the elected or appointed officials, officers, employees, or agents of the District shall not be liable personally for the payment of the bonds or be subject to any personal liability by reason of the issuance of the bonds, or for any representations, warranties, covenants, obligations, or agreements of the District contained in this act, the bonds, the Financing Documents, or the Closing Documents.

“(b) The signature, countersignature, facsimile signature, or facsimile countersignature of any official appearing on the bonds, the Financing Documents, or the Closing Documents shall be valid and sufficient for all purposes notwithstanding the fact that the individual signatory ceases to hold that office before delivery of the bonds, the Financing Documents, or the Closing Documents.

“Sec. 12. Authorized delegation of authority.

“To the extent permitted by District and federal laws, the Mayor may delegate to any Authorized Delegate the performance of any function authorized to be performed by the Mayor under this act.

“Sec. 13. Maintenance of documents.

“Copies of the specimen bonds and of the final Financing Documents and Closing Documents shall be filed in the Office of the Secretary of the District of Columbia.

“Sec. 14. Information reporting.

“Within 3 days after the Mayor’s receipt of the transcript of proceedings relating to the issuance of the bonds, the Mayor shall transmit a copy of the transcript to the Secretary to the Council.

“Sec. 15. Severability.

“If any particular provision of this act, or the application thereof to any person or circumstance is held invalid, the remainder of this act and the application of such provision to other persons or circumstances shall not be affected thereby. If any action or inaction contemplated under this act is determined to be contrary to the requirements of applicable law, such action or inaction shall not be necessary for the purpose of issuance of the bonds, and the validity of the bonds shall not be adversely affected.”



## § 47-2002.07. Revenue from tax on gross receipts from sale of or charges for service of parking or storing vehicles of trailers dedicated to WMATA operating subsidy.

All of the revenue derived from the collection of the tax imposed upon all vendors by § 47-2002(1) on the gross receipts from the sale of or charges for the service of parking or storing vehicles or trailers, except the service of parking or storing of motor vehicles or trailers on a parking lot owned or operated by the Washington Metropolitan Area Transit Authority ("WMATA") and located adjacent to a WMATA passenger stop or station, shall be dedicated annually to paying the District's annual operating subsidies to WMATA.

(Apr. 8, 2011, D.C. Law 18-370, § 625(b)(2), 58 DCR 1008.)

**Legislative history of Law 18-370.** — For history of Law 18-370, see notes under § 47-143.

**Editor's notes.** — Section 629 of D.C. Law

18-370 provided: "Sec. 629. Applicability. This subtitle shall apply as of October 1, 2011; except, that sections 622 and 623(a)(2) shall apply as of the effective date of this act."

## § 47-2003. Reimbursement of vendor for tax.

(a) Reimbursement for the tax imposed upon the vendor shall be collected by the vendor from the purchaser on all sales the gross receipts from which are subject to the tax imposed by this chapter so far as it can be done. It shall be the duty of each purchaser in the District to reimburse the vendor, as provided in § 47-2004, for the tax imposed by this chapter. Such reimbursement of tax shall be a debt from the purchaser to the vendor and shall be recoverable at law in the same manner as other debts.

(b) In the event that the vendor shall collect a tax in excess of the reimbursement schedule rates provided for in this chapter, such excess shall be refunded to the purchaser, or in lieu thereof, shall become a debt to the District in the same manner as taxes due and payable under this chapter.

(May 27, 1949, 63 Stat. 115, ch. 146, title I, § 126; July 24, 1982, D.C. Law 4-131, § 203, 29 DCR 2418; Sept. 30, 1993, D.C. Law 10-25, § 111(g), 40 DCR 5489; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; July 13, 2012, D.C. Law 19-149, § 2(a)(3), 59 DCR 5129.)

**Cross references.** — Compensating-use tax, collection of tax by vendor, see § 47-2203. Compensating-use tax, nonresident vendors, see § 47-2204.

**Section references.** — This section is referred to in §§ 47-2004.

**Prior Codifications.** — 1981 Ed., § 47-2003.

1973 Ed., § 47-2603.

**Effect of amendments.** — D.C. Law 19-149, in subsec. (a), deleted "except a street vendor as defined in § 47-2002.01(a)(2)," following "by the vendor".

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 111(g) of Omnibus Budget Support Temporary Act of 1993 (D.C. Law 10-11, August 6, 1993, law notification 40 DCR 6213).

**Legislative history of Law 4-131.** — For legislative history of D.C. Law 4-131, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 10-25.** — For legislative history of D.C. Law 10-25, see Historical and Statutory Notes following § 47-2002.01.



**Legislative history of Law 19-149.** — For history of Law 19-149, see notes under § 47-2002.01.

# CASE NOTES

## In general.

Purchaser must reimburse vendor who fails to charge sales or use tax at time of sale. D.C. Code 1981, §§ 47-2003, 47-2003(a), 47-2004, 47-2203. *J. Frogg, Ltd. v. Fleming*, 598 A.2d 735, 1991 D.C. App. LEXIS 299 (1991).

Cause of action by vendor against purchaser for reimbursement of sales taxes paid by the vendor under this section is subject to the

3-year limitations period of § 12-301(8). *J. Frogg, Ltd. v. Khambata*, 117 WLR 293 (Super. Ct. 1989).

Cause of action for reimbursement by purchaser to vendor for sales taxes under this section accrues at the time the sales tax became due and payable under §§ 47-2015 and 47-2016. *J. Frogg, Ltd. v. Khambata*, 117 WLR 293 (Super. Ct. 1989).

## § 47-2004. Vendor to collect tax; credit for expenses; application.

(a) For the purpose of collecting his reimbursement as provided in § 47-2003 insofar as it can be done and yet eliminate the fractions of a cent, the vendor shall add to the sales price and collect from the purchaser such amounts as may be prescribed by the Mayor to carry out the purposes of this section.

(b) Repealed.

(May 27, 1949, 63 Stat. 115, ch. 146, title I, § 127; Oct. 21, 1975, D.C. Law 1-23, title III, § 301(8), 22 DCR 2100; July 24, 1982, D.C. Law 4-131, § 204, 29 DCR 2418; July 26, 1989, D.C. Law 8-17, § 4(c), 36 DCR 4160; Sept. 30, 1993, D.C. Law 10-25, § 111(h), 40 DCR 5489; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 102(c), 48 DCR 334; July 13, 2012, D.C. Law 19-149, § 2(a)(4), 59 DCR 5129.)

**Cross references.** — Compensating-use tax, collection of tax by vendor, see § 47-2203.

Compensating-use tax, nonresident vendors, see § 47-2204.

Tax rates, records and surplus funds, authority of Council to change certain tax rates, see § 47-504.

**Section references.** — This section is referred to in § 47-2003.

**Prior Codifications.** — 1981 Ed., § 47-2004.

1973 Ed., § 47-2604.

**Effect of amendments.** — D.C. Law 13-305 repealed subsec. (b).

D.C. Law 19-149, in subsec. (a), deleted “, except a street vendor as defined in § 47-2002.01(a)(2),” following “the vendor”.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 111(h) of Omnibus Budget Support Temporary Act of 1993 (D.C. Law 10-11, August 6, 1993, law notification 40 DCR 6213).

**Legislative history of Law 1-23.** — For

legislative history of D.C. Law 1-23, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 4-131.** — For legislative history of D.C. Law 4-131, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 8-17.** — For legislative history of D.C. Law 8-17, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 10-25.** — For legislative history of D.C. Law 10-25, see Historical and Statutory Notes following § 47-2002.01.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Legislative history of Law 19-149.** — For history of Law 19-149, see notes under § 47-2002.01.

**Editor’s notes.** — Section 103 of D.C. Law 13-305 provided: “Sec. 103. Applicability. Section 102(a) through (c) shall apply beginning April 1, 2001. Section 102(d) shall apply beginning October 1, 2001.”

## CASE NOTES

**In general.**

Purchaser must reimburse vendor who fails to charge sales or use tax at time of sale. D.C.

Code 1981, §§ 47-2003, 47-2003(a), 47-2004, 47-2203. *J. Frog, Ltd. v. Fleming*, 598 A.2d 735, 1991 D.C. App. LEXIS 299 (1991).

**§ 47-2005. Exemptions.**

Gross receipts from the following sales shall be exempt from the tax imposed by this chapter:

(1) Sales to the United States or the District or any instrumentality thereof except sales to national banks and federal savings and loan associations;

(2) Sales to a state or any of its political subdivisions if such state grants a similar exemption to the District. As used in this paragraph, the term "state" means the several states, territories, and possessions of the United States;

(3) Sales to semipublic institutions; provided, however, that such sales shall not be exempt unless:

(A) Such institution shall have first obtained a certificate from the Mayor stating that such institution is entitled to such exemption;

(B) The vendor keeps a record of the sale, the name of the purchaser, the date of each separate sale, and the number of such certificate;

(C) Such institution is located within the District; and

(D) The property or services purchased are for use or consumption, or both, in maintaining, operating, and conducting the institution for the purpose for which it was organized or for honoring the institution or its members;

(4) Sales of materials and services to the printing clerks of the majority and minority rooms of the House of Representatives for use in the operation of such rooms, and sales of materials and services made by such clerks in connection with the operation of such rooms;

(5)(A) Sales of personal property purchased by a utility or a public-service company for use or consumption in furnishing a service or commodity, if the charges from furnishing the service or commodity are subject to a gross receipts tax or a mileage tax in force in the District for the period of time covered by a return required to be filed by the provisions of this chapter. If the personal property purchased is used both to produce receipts or charges subject to a gross receipts tax or a mileage tax and receipts or charges not subject to a gross receipts tax or a mileage tax, then this sales tax exemption shall be allocated in accordance with rules issued by the Mayor.

(B) Beginning on October 1, 1994, sales of personal property purchased by a toll telecommunication company, as defined in § 47-3901(10) [now § 47-3901(14)], irrespective of whether the property is used or consumed in furnishing a service, the charges from which are subject to the gross receipts tax imposed by § 47-2501(b), or Chapter 39 of this title. For the purposes of this subsection, the term "personal property" shall not include office equipment or office furniture.

(C) Beginning on May 1, 1997, sales of personal property purchased by a wireless telecommunication company, as defined in § 47-3901(12) [now (16)],



irrespective of whether the property is used or consumed in furnishing a service the charges from which are subject to Chapter 39 of this title. For purposes of this subparagraph, the term "personal property" shall not include office equipment or office furniture;

(D) Sales of personal property purchased by a digital audio radio satellite service company operating under a digital audio radio satellite license granted by the Federal Communications Commission, irrespective of whether the property is used or consumed in furnishing a service the charges from which are subject to the gross receipts tax imposed by § 47-2501.01;

(6) Repealed;

(7)(A) Casual and isolated sales by a vendor who is not regularly engaged in the business of making sales at retail;

(B) For the first 5 events during a calendar year, sales at a charity auction or other fundraising activity by a nonprofit teaching hospital;

(8) Sales of food or drink, beverages, and other goods made to any person for use in the operation of the majority and minority cloakrooms of the House of Representatives and sales of such food or drink, beverages, and other goods made by such person in connection with the operation of such cloakrooms;

(9) Sales of food or drink or beverages of any nature if made in any car composing a part of any train or in any aircraft or boat operating within the District in the course of commerce between the District and a state;

(10) Sales of goods made pursuant to bona fide contracts entered into before May 27, 1949; provided, that there is a contract in writing signed by the purchaser and vendor which imposes an unconditional liability on the part of the purchaser to buy the goods covered thereby at a fixed price and without escalator clause, and an unconditional liability on the part of the vendor to deliver a definite quantity of such goods at the contract price;

(11) Sales of natural or artificial gas, oil, electricity, solid fuel, or steam, directly used in manufacturing, assembling, processing, or refining;

(11A)(A) Sales of natural or artificial gas used for manufacturing, assembling, processing, refining, or refrigeration of goods for sale or resale when used in a restaurant, including a hotel restaurant.

(B) For the purposes of this paragraph, the term:

(i) "Hotel" means an establishment where food and lodging are regularly furnished to transients and which has at least 30 guest rooms and a dining room in the same or connected buildings.

(ii) "Restaurant" means a retail establishment licensed by the District of Columbia in the principal business of preparing and serving food to the public. The term "restaurant" shall include pizzerias, delicatessens, ice cream parlors, cafeterias, take-out counters, caterers, and separately-metered hotel and motel food service facilities. The term "restaurant" shall not include beverage counters, including coffee shops and juice bars;

(12) Repealed;

(13) Sale of motor vehicles and trailers which are subject to the provisions of title III of the District of Columbia Revenue Act of 1949;

(14) Sales of medicines, pharmaceuticals, and drugs whether or not made on prescriptions of duly licensed physicians and surgeons and general and special practitioners of the healing art;



(15)(A) Sales of bone screws, bone pins, pacemakers, and other articles permanently implanted in the human body to assist the functioning of any natural organ, artery, vein, or limb and which remain or dissolve in the body; orthopedic devices designed to be worn on the person of the user as a brace, support, or correction for the body structure, except orthopedic shoes and supportive devices for the foot unless they are required for the correction of a physical deformity; artificial human eyes and their replacement parts; artificial limbs for human beings and their replacement parts; artificial hearing devices for human beings and their replacement parts; mammary prostheses; any appliance and related supplies necessary as a result of any surgical procedure by which an artificial opening is created in the human body for the elimination of natural waste; sales of false teeth by a dentist and the materials used directly by a dentist in the restoration or preservation of teeth; sales of eyeglasses, when especially designed or prescribed by an ophthalmologist, oculist, or optometrist; provided, that such items are for the personal use of the owner or purchaser; and

(B) Sales of wheelchairs, crutches, canes, quad canes, walkers, hospital beds, bedside commodes, patient lifts, urinals, respirators, oxygen tents, kits and inhalers; hemodialysis devices, transcutaneous nerve stimulators; and sales of any other device, apparatus, or equipment used to replace or substitute for any part of the human body, or used to assist the ill or people with disabilities in saving or prolonging life, or used to alleviate pain and suffering; provided, that such device, apparatus, or equipment is sold to an individual for the personal use of that individual and pursuant to written prescriptions or orders of duly licensed physicians and surgeons and general and special practitioners of the healing art;

(16) Sales of material to be incorporated permanently in any war memorial authorized by Congress to be erected on public grounds of the United States;

(17) Repealed;

(18) Food or drink described in § 47-2001(n)(1)(A), which is delivered and sold without profit by a nonprofit volunteer organization to persons who are confined to their homes due to age, illness, disability, or infirmity; provided that such sales shall not be exempt unless such organization has received a certificate of exemption from the District as a semipublic institution;

(19) Sales of food or drink as described in subsection (n)(1)(A) of § 47-2001 made by a residence for senior citizens to the residents and employees of such facility and to the bona fide guests of such residents; provided, that the facility does not also make such sales to the general public. As used in this paragraph, the term "residence for senior citizens" means any facility which rents or offers for rent rooms or dwelling units exclusively to persons who are 60 years of age or older or who are blind or have another disability; provided, that at least 80% of the residents of such facility must be 60 years of age or older;

(20) Sales of motor-vehicle fuels upon the sale of which a tax is imposed by Chapter 23 of this title, as amended or as may be hereafter amended;

(21) Sales of vessels which are subject to the provisions of Article 29 of the Police Regulations;

(22) Sales to an organization exempt under 26 U.S.C. § 501(c)(4) when the organization's membership is limited to a state, territory, or possession of the United States or any political subdivision of a state, territory, or possession;

(23) Sales of "eligible foods," as defined in 7 CFR 271.2 pursuant to the federal Food Stamp Act of 1977 (7 U.S.C. § 2011 et seq.) ("Stamp Act"), and purchased with food stamps issued pursuant to the Stamp Act;

(24)(A) Sales of residential public utility services and commodities by a gas, electric, or telephone company, sales of residential heating oil or related services by any person, sales of residential natural or artificial gas by any person, or sales of residential electricity by an electric supplier; and

(B) Sales of residential local exchange service or exchange access as defined in § 47-3901(14) [see Editor's note].

(25) Sales of tickets sold for the 1994 World Cup Soccer Games;

(26) Sales of residential cable television service and commodities by a cable television company;

(27) Sales of the following:

(A) Printing services, if purchased by a publisher to print a newspaper that is to be distributed free of charge in the District;

(B) Tangible personal property purchased by a publisher that prints its own newspaper, if the property is incorporated by the publisher as a material or part of a newspaper that is distributed free of charge in the District; and

(C) Wrapping, packing and packaging supplies, if purchased by a publisher to further the distribution of a newspaper that is distributed free of charge in the District;

(28) Sales of building materials related to the development of a qualified supermarket, as defined under § 47-3801;

(29) Beginning on May 1, 1997, 2-way land mobile radio used for taxicabs fare dispatch and for communication between taxicab drivers and their base;

(30)(A) Gross receipts from sales of tangible personal property to be incorporated or consumed in the course of construction of the Gallery Place Project;

(B) For the purposes of this paragraph, "Gallery Place Project" means the acquisition, construction, installing, and equipping of a mixed-use complex located on Square 454, Lots 41, 824, 838, 857, 877, 878, the portion of the public alley that reverted to former Lot 820, (which is currently known as Lot 866) and former Lot 821 (which is currently known as Lot 867) pursuant to the Plat of Alley Closing filed with the Surveyor of the District of Columbia in Liber 17 at folio 74; and the portions of the public alley that will revert to Lots 41, 824, 838, 857, 877 and 878, all in Square 454, pursuant to the alley closing approved by the Closing of Public Alleys in Square 454 and Square 455, S.O. 98-194 Act of 1999, effective October 22, 1999 (D.C. Law 13-48; 46 DCR 6768), and consisting of:

(i) An approximately 60,000-square-foot multiplex cinema;

(ii) A mixed-use facility providing for retail stores, dining, entertainment, a health and fitness club, offices, and related facilities;

(iii) A market-rate housing complex consisting of approximately 170 residential units;



(iv) A parking garage containing approximately 850 parking spaces; and

(v) Other ancillary improvements; and

(C) The amount of all taxes, fees, and deposits exempt, abated, or waived under this paragraph, section 2(b) of the Gallery Place Economic Development Amendment Act of 2000, effective April 3, 2001, (D.C. Law 13-241; 48 DCR 610) [D.C. Code § 2-1217.31(b)], and §§ 47-902(17), 45-922(24) [§ 42-1102(24) (2001 Ed.)], and 47-1002(26), shall not exceed, in the aggregate, \$7 million;

(31) Sales to a Qualified High Technology Company of computer software or hardware, and visualization and human interface technology equipment, including operating and applications software, computers, terminals, display devices, printers, cable, fiber, storage media, networking hardware, peripherals, and modems when purchased for use in connection with the operation of the Qualified High Technology Company;

(32) Repealed;

(32A) Repealed.

(33) Sales of material or equipment used in the construction, and of materials used in the repair or alteration, of real property; provided, that the materials are temporarily stored, for no longer than 90 days, in the District for the purpose of subsequently transporting the property outside the District for use solely outside the District.

(34)(A) Sales of tangible personal property to be incorporated in or consumed in the course of the initial development, construction, equipping, and furnishing of the Mandarin Hotel Project until the Development Sponsor sells the Mandarin Oriental Hotel Project, as evidenced by the recordation of a deed conveying title to Square 299, Lot 831, at which time such amounts shall be due and payable without penalty or interest.

(B) The amount of all taxes, fees, and deposits deferred under this paragraph, section 2(b) of the Mandarin Oriental Hotel Tax Deferral Act of 2002, passed on 2nd reading on September 17, 2002 (Enrolled version of Bill 14-466) [D.C. Code § 2-1217.32(b)], and §§ 42-1102(25), 47-902(19), and 47-1002(27), shall not exceed, in the aggregate, \$4 million.

(C) For purposes of this paragraph, the term:

(i) "Development Sponsor" means Portals Hotel Site, LLC, a Delaware limited liability company, and its successors and assigns.

(ii) "Mandarin Oriental Hotel Project" means the acquisition and initial development, construction, equipping, and furnishing of a Mandarin Oriental hotel within the Portals project, located on Square 299, Lot 831, consisting of a 400-room hotel with approximately 33,000 square feet of associated meeting and banquet space, 2 restaurants, a health spa and fitness center totaling approximately 10,000 square feet, and approximately 90,000 square feet of public parking space for approximately 200 cars.

(iii) "Mandarin TIF Bonds" means the tax increment financing bonds issued in connection with the Mandarin Oriental Hotel Project pursuant to the Tax Increment Revenue Bonds Mandarin Hotel Project Emergency Approval Resolution of 2000, effective March 7, 2000 (Res. 13-510; 47 DCR 2133), and



the Mandarin Hotel Project Modification Approval Resolution of 2000, effective December 19, 2000 (Res. 13-745; 48 DCR 83).

(D) This paragraph shall apply upon the closing of the sale of the Mandarin TIF Bonds;

(35) Sales by the United States or the District, as fixed by regulation; and

(36) Fees retained by a retail establishment under [§ 8-102.03(b)(1)].

(May 27, 1949, 63 Stat. 115, ch. 146, title I, § 128; May 18, 1954, 68 Stat. 118, ch. 218, title XIII, § 1305; Mar. 31, 1956, 70 Stat. 81, ch. 154, title II, § 204; July 3, 1957, 71 Stat. 276, Pub. L. 85-82, § 1; Sept. 30, 1966, 80 Stat. 856, Pub. L. 89-610, title III, § 302; Aug. 2, 1968, 82 Stat. 614, Pub. L. 90-450, title III, § 305(a); Oct. 31, 1969, 83 Stat. 171, Pub. L. 91-106, title I, § 106; Jan. 5, 1971, 84 Stat. 1932, Pub. L. 91-650, title II, § 201(b); Oct. 21, 1975, D.C. Law 1-23, title III, § 301(9), (10), 22 DCR 2101; June 15, 1976, D.C. Law 1-70, title IV, § 403, 23 DCR 540; Apr. 6, 1977, D.C. Law 1-101, § 2, 23 DCR 8731; Mar. 3, 1979, D.C. Law 2-145, § 2, 25 DCR 6983; Sept. 13, 1980, D.C. Law 3-92, § 201(c), 27 DCR 3390; Mar. 4, 1981, D.C. Law 3-128, § 12, 28 DCR 246; July 24, 1982, D.C. Law 4-131, §§ 205, 503, 29 DCR 2418; Aug. 14, 1982, D.C. Law 4-133, § 2, 29 DCR 2745; Mar. 14, 1984, D.C. Law 5-58, § 3, 30 DCR 6293; Feb. 28, 1987, D.C. Law 6-207, § 2, 34 DCR 677; Sept. 22, 1987, D.C. Law 7-24, § 2, 34 DCR 4515; Oct. 1, 1987, D.C. Law 7-25, § 4, 34 DCR 5068; Sept. 20, 1989, D.C. Law 8-26, § 20, 36 DCR 4723; Mar. 11, 1992, D.C. Law 9-71, § 2, 39 DCR 19; Sept. 10, 1992, D.C. Law 9-145, § 107(c), 39 DCR 4895; Sept. 30, 1993, D.C. Law 10-25, § 111(i), 40 DCR 5489; Apr. 30, 1994, D.C. Law 10-115, § 203(b), 41 DCR 1216; June 14, 1994, D.C. Law 10-128, § 104(c), 41 DCR 2096; Sept. 26, 1995, D.C. Law 11-52, § 113, 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 30, 1998, D.C. Law 12-99, § 2(a), 45 DCR 1524; Apr. 30, 1998, D.C. Law 12-100, § 2(c), 45 DCR 1533; Oct. 14, 1999, D.C. Law 13-49, § 8(a), 46 DCR 5153; Apr. 5, 2000, D.C. Law 13-75, § 2(b), 46 DCR 10425; July 18, 2000, D.C. Law 13-148, § 2(b), 47 DCR 4636; Oct. 4, 2000, D.C. Law 13-166, § 3(c), 47 DCR 5821; Oct. 19, 2000, D.C. Law 13-172, § 2302(a), 47 DCR 6308; Apr. 3, 2001, D.C. Law 13-241, § 4(c), 48 DCR 610; Apr. 3, 2001, D.C. Law 13-256, § 402(b), 48 DCR 730; June 9, 2001, D.C. Law 13-306, § 2, 48 DCR 569; June 9, 2001, D.C. Law 13-305, § 202(g), 302(c), 48 DCR 334; June 19, 2001, D.C. Law 13-313, § 16(b), 48 DCR 1873; Oct. 26, 2001, D.C. Law 14-42, §§ 12, 14, 48 DCR 7612; June 25, 2002, D.C. Law 14-157, § 2(b), 49 DCR 4279; Oct. 19, 2002, D.C. Law 14-213, §§ 38, 39, 49 DCR 8140; Mar. 25, 2003, D.C. Law 14-232, § 4(c), 49 DCR 9764; Apr. 4, 2003, D.C. Law 14-282, § 11§§ , 50 DCR 896; Mar. 13, 2004, D.C. Law 15-105, §§ 12(e), 26(d), 85(b), 51 DCR 881; Dec. 7, 2004, D.C. Law 15-205, § 1182, 51 DCR 8441; Apr. 5, 2005, D.C. Law 15-277, § 2, 52 DCR 833; Apr. 24, 2007, D.C. Law 16-305, § 73(f), 53 DCR 6198; Sept. 23, 2009, D.C. Law 18-48, § 2(a)(2), 56 DCR 5482; Sept. 23, 2009, D.C. Law 18-55, § 9(a)(5), 56 DCR 5703; Mar. 3, 2010, D.C. Law 18-111, § 7041, 57 DCR 181; Mar. 12, 2011, D.C. Law 18-324, § 2, 58 DCR 3.)

**Cross references.** — Motor fuel tax, rules and regulations by Mayor, see § 47-2321.

Motor fuel tax, severability, savings clauses, see § 47-2322.

**Section references.** — This section is referred to in §§ 2-1217.31, 2-1217.32, 42-1102, 47-902, 47-1002, 47-2006, 47-2007, 47-2010, and 47-3802.

**Prior Codifications.** — 1981 Ed., § 47-2005.

1973 Ed., § 47-2605.

**Effect of amendments.** — D.C. Law 13-49, amending par. (24) struck the phrase “telephone company,” and inserting the phrase “telephone company, sales of residential heating oil or related services by any person,” in its place.

Section 8(b) of D.C. Law 13-49 provided: “This section shall apply as of June 1, 1994.”

D.C. Law 13-75 added par. (5)(D).

Section 3 of D.C. Law 13-75 provided: “This act shall apply as of October 1, 1999.”

D.C. Law 13-148 rewrote subd. (24), which formerly read:

“Sales of residential public utility services and commodities by a gas, electric lighting, telephone company, sales of residential heating oil by any person, or sales of residential natural or artificial gas by any person;”

D.C. Law 13-166, added par. (28).

D.C. Law 13-172 added par. (29).

D.C. Law 13-241 added par. (30).

D.C. Law 13-256 added par. (31).

Law 13-305, in par. 3(C), deleted “, carries on its activities to a substantial extent within the District, and such activities result in substantial benefits to citizens of the District” following “within the District”; and rewrote par. (24).

D.C. Law 13-306 added par. (32).

D.C. Law 13-313, in par. (29), substituted “May 1, 1997” for “April 30, 1998”.

D.C. Law 14-42 validated previously made technical corrections in pars. (28), (29), (30), and (31).

D.C. Law 14-157 added par. (33).

D.C. Law 14-213 validated previously made technical corrections.

D.C. Law 14-232 substituted a semicolon for “; and” at the end of par. (31); substituted “; and” for a period at the end of par. (32); and added par. (33) (34).

D.C. Law 14-282 repealed par. (12); and added par. (34) (35). Prior to repeal, par. (12) had read as follows: “(12) Sales which a state would be without power to tax under the limitations of the Constitution of the United States;”

D.C. Law 15-105 validated previously made technical corrections; and repealed par. (32).

D.C. Law 15-205 added par. (32A).

D.C. Law 15-277, in par. (7), designated subpar. (A) and added subpar. (B).

D.C. Law 16-305, in par. (15)(B), substituted “or people with disabilities” for “or disabled”; in par. (18), substituted “disability” for “handicap”; and in par. (19), substituted “blind or have another disability” for “blind, disabled, or handicapped”.

D.C. Law 18-48 added par. (11A).

D.C. Law 18-55 added par. (36).

D.C. Law 18-111 repealed par. (32A).

D.C. Law 18-324 rewrote par. (11A), which formerly read:

“(11A)(A) Sales of natural or artificial gas used for manufacturing, assembling, processing, refining, or refrigeration of goods for sale or resale when used in a restaurant, including a hotel restaurant

“(B) For the purposes of this paragraph, the term:

“(i) ‘Hotel’ means an establishment where food and lodging are regularly furnished to transients and which has at least 30 guest rooms and a dining room in the same or connected buildings.

“(ii) ‘Restaurant’ means a retail establishment licensed by the District of Columbia in the principal business of preparing and serving food to the public. The term ‘restaurant’ shall include pizzerias, delicatessens, ice cream parlors, cafeterias, take-out counters, caterers, and separately-metered hotel and motel food service facilities. The term ‘restaurant’ shall not include beverage counters, including coffee shops and juice bars;”

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 20 of Toll Telecommunications Service Tax Temporary Act of 1989 (D.C. Law 8-4, May 23, 1989, law notification 36 DCR 4154).

For temporary (225 day) amendment of section, see § 4 of District of Columbia Gross Receipts and Toll Telecommunication Service Tax Temporary Amendment Act of 1991 (D.C. Law 9-34, August 17, 1991, law notification 38 DCR 5801).

For temporary (225 day) amendment of section, see § 4 of District of Columbia Gross Receipts and Toll Telecommunication Service Tax Temporary Amendment Act of 1992 (D.C. Law 9-124, June 11, 1992, law notification 39 DCR 4686).

For temporary (225 day) amendment of section, see § 110(c) of Omnibus Budget Support Temporary Act of 1992 (D.C. Law 9-134, July 23, 1992, law notification 39 DCR 5815).

For temporary (225 day) amendment of section, see § 111(i) of Omnibus Budget Support Temporary Act of 1993 (D.C. Law 10-11, August 6, 1993, law notification 40 DCR 6213).

For temporary (225 day) amendment of section, see § 3 of Toll Telecommunication Temporary Amendment Act of 1996 (D.C. Law 11-23, July 14, 1995, law notification 42 DCR 3829).

For temporary (225 day) amendment of section, see § 3 of Natural and Artificial Gas and Gross Receipts Tax Temporary Amendment Act of 1996 (D.C. Law 11-260, April 25, 1997, law notification 44 DCR 6798).

For temporary (225 day) amendment of section, see § 4(c) of Mandarin Oriental Hotel Project Tax Deferral Temporary Act of 2002 (D.C. Law 14-143, May 21, 2002, law notification 49 DCR 5060).



For temporary (225 day) amendment of section, see § 12(yy) of Tax Clarity and Recorder of Deeds Temporary Act of 2002 (D.C. Law 14-191, October 5, 2002, law notification 49 DCR 9549).

For temporary (225 day) amendment of section, see § 12(yy) of Tax Clarity and Related Amendments Temporary Act of 2003 (D.C. Law 14-228, March 23, 2003, law notification 50 DCR 2741).

For temporary (225 day) amendment of section, see § 2(c) of CareFirst Economic Assistance Temporary Act of 2002 (D.C. Law 14-246, March 25, 2003, law notification 50 DCR 2759).

For temporary (225 day) amendment of section, see § 2 of Back-to-School Sales Tax Holiday Temporary Amendment Act of 2002 (D.C. Law 14-209, October 19, 2002, law notification 49 DCR 10465).

For temporary (225 day) amendment of section, see § 2 of Charity Auction Sales Tax Exemption Temporary Act of 2003 (D.C. Law 15-85, March 10, 2004, law notification 51 DCR 9223).

For temporary (225 day) amendment of section, see § 2(d) of Lot 878, Square 456 Tax Exemption Clarification Temporary Amendment Act of 2004 (D.C. Law 15-181, September 8, 2004, law notification 51 DCR 9223).

Section 2 of D.C. Law 19-2 amended section 3 of D.C. Law 18-324 to read as follows: "Sec. 3. Applicability. This act shall apply as of January 1, 2010; provided, that its fiscal effect is included in an approved budget and financial plan."

Section 4(b) of D.C. Law 19-2 provided that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 19-98 amended section 3 of D.C. Law 18-324 to read as follows: "Sec. 3. Applicability. This act shall apply as of January 1, 2010; provided, that its fiscal effect is included in an approved budget and financial plan."

Section 4(a) of D.C. Law 19-98 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary amendment of section, see § 3 of the Toll Telecommunication Emergency Amendment Act of 1995 (D.C. Act 11-42, April

**Legislative history of Law 1-23.** — For legislative history of D.C. Law 1-23, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 1-70.** — For legislative history of D.C. Law 1-70, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 1-101.** — Law 1-101, the "Home Delivery Food Tax Act," was introduced in Council and assigned Bill No. 1-316, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on September 15, 1976 and October 12, 1976, respectively. Signed

by the Mayor on November 8, 1976, it was assigned Act No. 1-169 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 2-145.** — Law 2-145, the "Senior Citizens Residences Sales Tax on Meals Exemption Act," was introduced in Council and assigned Bill No. 2-337, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 28, 1978 and December 12, 1978, respectively. Signed by the Mayor on December 29, 1978, it was assigned Act No. 2-321 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 3-92.** — For legislative history of D.C. Law 3-92, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 3-128.** — Law 3-128, the "Closing of a Portion of Public Alley in Square 5263; the Police Officers, Firefighters, and Teachers Retirement Amendments; the District of Columbia Depository Act of 1977 Amendment; and the District of Columbia Motor Vehicle Fuel and Sales Tax Act and the District of Columbia Sales Tax Act Amendments of 1980 Acts of 1980," was introduced in Council and assigned Bill No. 3-394, which was referred to the Committee on Transportation and Environmental Affairs. The Bill was adopted on first and second readings on November 25, 1980 and December 9, 1980, respectively. Signed by the Mayor on January 7, 1981, it was assigned Act No. 3-337 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 4-131.** — For legislative history of D.C. Law 4-131, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 4-133.** — Law 4-133, the "Medical Equipment Sales Tax Exemption Act of 1982," was introduced in Council and assigned Bill No. 4-154, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 25, 1982 and June 8, 1982, respectively. Signed by the Mayor on June 21, 1982, it was assigned Act No. 4-199 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 5-58.** — Law 5-58, the "D.C. Boat Titling Act of 1983," was introduced in Council and assigned Bill No. 5-80, which was referred to the Committee on Transportation and Environmental Affairs. The Bill was adopted on first and second readings on October 18, 1983, and November 1, 1983 respectively. Signed by the Mayor on December 2, 1983 it was assigned Act No. 5-86 and transmitted to both House of Congress for its review.

**Legislative history of Law 6-207.** — Law 6-207, the "D.C. Income and Franchise, and Sales Taxes Amendment Act of 1986," was introduced in Council and assigned Bill No. 6-95, which was referred to the Committee on Fi-



nance and Revenue. The Bill was adopted on first and second readings on November 25, 1986 and December 16, 1986, respectively. Signed by the Mayor on January 8, 1987, it was assigned Act No. 6-267 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 7-24.** — Law 7-24, the “District of Columbia Sales Tax Amendment Act of 1987,” was introduced in Council and assigned Bill No. 7-243, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 16, 1987 and June 30, 1987, respectively. Signed by the Mayor on July 6, 1987, it was assigned Act No. 7-45 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 7-25.** — Law 7-25, the “Gross Receipt Tax Amendment Act of 1987,” was introduced in Council and assigned Bill No. 7-186, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 30, 1987 and July 14, 1987, respectively. Signed by the Mayor on July 17, 1987, it was assigned Act No. 7-47 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 8-26.** — Law 8-26, the “Toll Telecommunications Service Tax Act of 1989,” was introduced in Council and assigned Bill No. 8-166, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 30, 1989 and June 13, 1989, respectively. Signed by the Mayor on June 27, 1989, it was assigned Act No. 8-48 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 9-71.** — Law 9-71, the “District of Columbia World Cup Soccer Ticket Sales Promotional Amendment Act of 1991,” was introduced in Council and assigned Bill No. 9-123, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 5, 1991, and December 3, 1991, respectively. Signed by the Mayor on December 20, 1991, it was assigned Act No. 9-122 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 9-145.** — For legislative history of D.C. Law 9-145, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 10-25.** — For legislative history of D.C. Law 10-25, see Historical and Statutory Notes following § 47-2002.01.

**Legislative history of Law 10-115.** — For legislative history of D.C. Law 10-115, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 10-128.** — For legislative history of D.C. Law 10-128, see His-

torical and Statutory Notes following § 47-2001.

**Legislative history of Law 11-52.** — Law 11-52, the “Omnibus Budget Support Act of 1995,” was introduced in Council and assigned Bill No. 11-218, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 19, 1995, and June 6, 1995, respectively. Signed by the Mayor on July 13, 1995, it was assigned Act No. 11-94 and transmitted to both Houses of Congress for its review. D.C. Law 11-52 became effective on September 26, 1995.

**Legislative history of Law 12-99.** — Law 12-99, the “Natural and Artificial Gas Gross Receipts Tax Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-150, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 4, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 26, 1998, it was assigned Act No. 12-273 and transmitted to both Houses of Congress for its review. D.C. Law 12-99 became effective on April 30, 1998.

**Legislative history of Law 12-100.** — For legislative history of D.C. Law 12-100, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 13-49.** — Law 13-49, the “Criminal Code and Clarifying Technical Amendments Act of 1999,” was introduced in Council and assigned Bill No. 13-61, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 2, 1999, and April 13, 1999, respectively. Signed by the Mayor on May 13, 1999, it was assigned Act No. 13-69 and transmitted to both Houses of Congress for its review. D.C. Law 13-49 became effective on October 19, 1999.

**Legislative history of Law 13-75.** — Law 13-75, the “Digital Audio Radio Satellite Service Companies Tax Exemption Act of 1999,” was introduced in Council and assigned Bill No. 13-262, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 5, 1999, and November 2, 1999, respectively. Signed by the Mayor on November 18, 1999, it was assigned Act No. 13-192 and transmitted to both Houses of Congress for its review. D.C. Law 13-75 became effective on April 5, 2000.

**Legislative history of Law 13-148.** — Law 13-148, the “Electricity Tax Act of 2000,” was introduced in Council and assigned Bill No. 13-280, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 7, 2000, and April 4, 2000, respectively. Signed by the Mayor on July 18, 2000, it was assigned Act No. 13-335 and transmitted to both Houses of Con-

gress for its review. D.C. Law 13-148 became effective on July 18, 2000.

**Legislative history of Law 13-166.** — Law 13-166, the “Supermarket Tax Exemption Act of 2000,” was introduced in Council and assigned Bill No. 13-88, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 3, 2000, and June 6, 2000, respectively. Signed by the Mayor on June 26, 2000, it was assigned Act No. 13-365 and transmitted to both Houses of Congress for its review. D.C. Law 13-166 became effective on October 4, 2000.

**Legislative history of Law 13-172.** — Law 13-172, the “Fiscal Year 2001 Budget Support Act of 2000,” was introduced in Council and assigned Bill No. 13-679, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 15, 2000, and June 6, 2000, respectively. Signed by the Mayor on June 26, 2000, it was assigned Act No. 13-175 and transmitted to both Houses of Congress for its review. D.C. Law 13-172 became effective on October 19, 2000.

**Legislative history of Law 13-241.** — For Law 13-241, see notes under § 47-902.

**Legislative history of Law 13-256.** — For Law 13-256, see notes following § 47-1817.01.

**Legislative history of Law 13-305.** — For Law 13-305, see notes following § 47-901.

**Legislative history of Law 13-306.** — Law 13-306, the “Sales Tax Holiday Act of 2000,” was introduced in Council and assigned Bill No. 13-859, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 8, 2000, and December 5, 2000, respectively. Signed by the Mayor on December 22, 2000, it was assigned Act No. 13-505 and transmitted to both Houses of Congress for its review. D.C. Law 13-306 became effective on June 9, 2001.

**Legislative history of Law 13-313.** — Law 13-313, the “Technical Amendment Act of 2000,” was introduced in Council and assigned Bill No. 13-879, which was referred to the Committee on the Whole. The Bill was adopted on first and second readings on December 5, 2000, and December 19, 2000, respectively. Signed by the Mayor on January 19, 2001, it was assigned Act No. 13-574 and transmitted to both Houses of Congress for its review. D.C. Law 13-313 became effective on June 19, 2001.

**Legislative history of Law 14-42.** — For Law 14-42, see notes following § 47-1361.

**Legislative history of Law 14-157.** — For Law 14-157, see notes following § 47-2001.

**Legislative history of Law 14-213.** — For Law 14-213, see notes following § 47-820.

**Legislative history of Law 14-232.** — For Law 14-232, see notes following § 47-902.

**Legislative history of Law 14-282.** — For Law 14-282, see notes following § 47-902.

**Legislative history of Law 15-105.** — For Law 15-105, see notes following § 47-902.

**Legislative history of Law 15-181.** — For Law 15-181, see notes following § 47-1002.

**Legislative history of Law 15-205.** — For Law 15-205, see notes following § 47-903.

**Legislative history of Law 15-277.** — Law 15-277, the “Charity Auction Sales Tax Exemption Act of 2004,” was introduced in Council and assigned Bill No. 15-312, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 9, 2004, and December 7, 2004, respectively. Signed by the Mayor on December 29, 2004, it was assigned Act No. 15-668 and transmitted to both Houses of Congress for its review. D.C. Law 15-277 became effective on April 5, 2005.

**Legislative history of Law 16-305.** — For Law 16-305, see notes following § 47-802.

**Legislative history of Law 18-48.** — For Law 18-48, see notes following § 47-2001.

**Legislative history of Law 18-55.** — For Law 18-55, see notes following § 47-1803.02.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-305.02.

**Legislative history of Law 18-324.** — Law 18-324, the “Processing Sales Tax Clarification Act of 2010,” was introduced in Council and assigned Bill No. 18-707, which was referred to the Committee Finance and Revenue. The Bill was adopted on first and second readings on November 23, 2010, and December 7, 2010, respectively. Signed by the Mayor on December 28, 2010, it was assigned Act No. 18-645 and transmitted to both Houses of Congress for its review. D.C. Law 18-324 became effective on March 12, 2011.

**Short title.** — Short title: Section 7040 of D.C. Law 18-111 provided that subtitle B of title VII of the act may be cited as the “Sale Tax Applicability Act of 2009”.

Short title of subtitle Q of title I of Law 15-205: Section 1181 of D.C. Law 15-205 provided that subtitle Q of title I of the act may be cited as Sales Tax Holiday Act of 2004.

Short title: Section 7040 of D.C. Law 18-111 provided that subtitle B of title VII of the act may be cited as the “Sale Tax Applicability Act of 2009”.

**Effective date.** — Section 3(b) of D.C. Law 4-133 provided that revised § 47-2005(15) shall take effect on the first day of the first month which begins more than 30 days after August 14, 1982.

Section 5 of Law 14-232 provided that this act shall take effect subject to the inclusion of its fiscal effect in an approved budget and financial plan.

**References in text.** — Section 2(b) of the Mandarin Oriental Hotel Tax Deferral Act of 2002, passed on 2nd reading on September 17, 2002 (Enrolled version of Bill 14-466), referred



to in par. (34)(B), is D.C. Law 14-232, § 2(b), set out as a note under § 42-1102.

Title III of the District of Columbia Revenue Act of 1949, referred to in paragraph (13) of this section, 63 Stat. 128, ch. 146, approved May 27, 1949.

**New implementing regulations.** — New implementing regulations: The “District of Columbia Boat Titling Act of 1983” (D.C. Law 5-58, Mar. 14, 1984, 30 DCR 6293) provided that the tax imposed by § 4-b(2) of Article 29 of the Police Regulations of the District of Columbia is in lieu of collecting any tax which may have been due under § 47-2001 et seq. as result of a sale.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 7-25, the “Gross Receipts Tax Amendment Act of 1987”, see Mayor’s Order 94-120.

**Editor’s notes.** — Section 3 of D.C. Law 18-48 provided that this act shall apply as of January 1, 2009.

Section 3 of D.C. Law 18-324 provided: “Sec. 3. Applicability. This act shall apply as of January 1, 2010.”

The Budget Director of the Council of the District of Columbia has determined, as of February 15, 2012, that the fiscal effect of Law 18-324 has not been included in an approved budget and financial plan. Therefore, the provisions of this section, enacted by Law 18-324, are not in effect.

Section 4(b) of D.C. Law 12-100 provided that returns or payments due from wireless telecommunication companies for the period beginning May 1, 1997, through the effective date of this act not previously filed or paid shall be due by the 45th day after the effective date of this act.

Section 4(c) of D.C. Law 12-100 provided that beginning in FY 1999, the amount of tax imposed by the act shall not be calculated as gross revenue to which the tax is then applied.

Section 2 of D.C. Law 13-241, as amended by section 40 of D.C. Law 14-213, provided:

“Tax and fee abatements Gallery Place Project .

“(a) For the purposes of this section, the term:

“(1) ‘Development Sponsor’ means Gallery Place Holdings LLC, a Delaware limited liability company, and its successors and assigns.

“(2) ‘Gallery Place Project’ means the acquisition, construction, installing, and equipping of a mixed-use complex located on Square 454, Lots 41, 824, 838, 857, 877, 878; the portion of the public alley that reverted to former Lot 820 (which is currently known as Lot 866), and former Lot 821 (which is currently known as Lot 867) pursuant to the Plat of Alley Closing filed with the Surveyor of the District of Columbia in Liber 17 at folio 74; and the portions of

the public alley that will revert to Lots 41, 824, 838, 857, 877 and 878, all in Square 454, pursuant to the alley closing approved by the Closing of Public Alleys in Square 454 and Square 455, S.O. 98-194, Act of 1999, effective October 22, 1999 (D.C. Law 13-48; 46 DCR 6768), and consisting of:

“(A) An approximately 60,000-square-foot multiplex cinema;

“(B) A mixed-use facility providing for retail stores, dining, entertainment, a health and fitness club, offices, and related facilities;

“(C) A market-rate housing complex consisting of approximately 170 residential units;

“(D) A parking garage containing approximately 850 parking spaces; and

“(E) Other ancillary improvements.

“(b) All fees to be paid, and any deposits to be made, by or on behalf of the Development Sponsor in connection with the Gallery Place Project under the eighth unnumbered paragraph of the General Expenses title of An Act Making Appropriations to provide for the expense of the Government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and ten, and for other purposes are hereby waived.

“(c) The amount of all taxes, fees, and deposits exempt, abated, or waived under subsection (b) of this section, section 302(24) of the District of Columbia Recordation Tax Act and D.C. Code 47-902(17), 47-1002(26), and 47-2005(32), shall not exceed, in the aggregate, \$7 million.

“(d) In accordance with section 5 of An Act providing a permanent form of government for the District of Columbia the Mayor shall expend up to \$2 million to improve and repair the streets, sewers, alleys, sidewalks, curbs, and gutters abutting the Gallery Place Project. All assessments upon abutting property for the cost of improvements to such streets, sewers, alleys, sidewalks, curbs, and gutters, including any expenses of assessment, shall be waived.”

Applicability of Law 13-305. Section 303(c) of D.C. Law 13-305, as amended by section 36(a) of D.C. Law 14-213, provided: “Section 302(c) and (f) shall be applicable as of January 1, 1999.”

Applicability of Law 18-48. Section 3 of D.C. Law 18-48 provides that “this act shall apply as of January 1, 2009.”

Section 3 of D.C. Law 18-324 provided: “Sec. 3. Applicability. This act shall apply as of January 1, 2010.” The Budget Director of the Council of the District of Columbia has determined, as of February 15, 2012, that the fiscal effect of Law 18-324 has not been included in an approved budget and financial plan. Therefore, the provisions of this section, enacted by Law 18-324, are not in effect.



## § 47-2006. Application of exemption.

The exemption provided for in § 47-2005(19) shall apply to sales made on or after January 1, 1978. Any tax collected by the District of Columbia from a vendor on such exempt sales and any reimbursements collected by a vendor from purchasers on such exempt sales shall be refunded in accordance with § 47-2020; provided, that no interest shall be allowed or paid on any amount refunded pursuant to this section.

(Mar. 3, 1979, D.C. Law 2-145, § 3, 25 DCR 6983; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Section references.** — This section is referred to in § 47-2008.

**Prior Codifications.** — 1981 Ed., § 47-2006.  
1973 Ed., § 47-2605.1.

**Legislative history of Law 2-145.** — For legislative history of D.C. Law 2-145, see Historical and Statutory Notes following § 47-2005.

## § 47-2007. Action for collection of taxes.

No administrative or civil action for the collection by the District of Columbia from a vendor of taxes (or penalties and interest thereon) due and payable on sales made prior to January 1, 1978, which would have been exempt sales under § 47-2005(19) if such sales had been made on or after January 1, 1978, shall be commenced after the effective date of this section. Any such administrative or civil action that was commenced on or after January 1, 1978, shall be terminated, and any taxes, penalties, and interest collected from a vendor pursuant to any such administrative or civil action commenced on or after January 1, 1978, shall be refunded in accordance with § 47-2020, notwithstanding the limitation in such section on refunds of taxes finally determined as due under § 47-2019; provided, that no interest shall be allowed or paid on any amount refunded pursuant to this section.

(Mar. 3, 1979, D.C. Law 2-145, § 4, 25 DCR 6983; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Section references.** — This section is referred to in § 47-2008.

**Prior Codifications.** — 1981 Ed., § 47-2007.  
1973 Ed., § 47-2605.2.

**Legislative history of Law 2-145.** — For legislative history of D.C. Law 2-145, see Historical and Statutory Notes following § 47-2005.

## § 47-2008. Rules and regulations.

The Mayor is authorized to promulgate such rules and regulations as may be necessary to carry out the purposes of §§ 47-2006 and 47-2007.

(Mar. 3, 1979, D.C. Law 2-145, § 5, 25 DCR 6983; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2008.  
1973 Ed., § 47-2605.3.

**Temporary Repeal of Section** For temporary (225 day) repeal of section, see § 12(zz) of Tax Clarity and Recorder of Deeds Temporary Act of

2002 (D.C. Law 14-191, October 5, 2002, law notification 49 DCR 9549).

For temporary (225 day) repeal of section, see § 12(zz) of Tax Clarity and Related Amendments Temporary Act of 2003 (D.C. Law 14-228, March 23, 2003, law notification 50 DCR 2741).

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 12(yy) of Tax Clarity and Recorder of Deeds Emergency Act of 2002 (D.C. Act 14-381, June 6, 2002, 49 DCR 5674).

For temporary (90 day) repeal of section, see § 12(zz) of Tax Clarity and Related Amendments Emergency Act of 2002 (D.C. Act 14-456, July 23, 2002, 49 DCR 8107).

For temporary (90 day) repeal of section, see § 12(zz) of Tax Clarity and Related Amendments Congressional Review Emergency Act of 2002 (D.C. Act 14-510, October 23, 2002, 49 DCR 10247).

**Legislative history of Law 2-145.** — For legislative history of D.C. Law 2-145, see Historical and Statutory Notes following § 47-2005.

**Delegation of Authority.** — Delegation of authority pursuant to Law 2-145, see Mayor's Order 86-143, August 25, 1986.

## § 47-2009. Tax to be separately stated.

Upon each sale of tangible personal property or services, the gross receipts from which are taxable under this chapter, the reimbursement of tax to be collected by the vendor from the purchaser under the provisions of this chapter shall be stated and charged separately from the sales price and shown separately on any record thereof at the time the sale is made or evidence of sale issued or employed by the vendor.

(May 27, 1949, 63 Stat. 117, ch. 146, title I, § 129; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Compensating-use tax, collection of tax by vendor, see § 47-2203.

Compensating-use tax, nonresident vendors, see § 47-2204.

**Prior Codifications.** — 1981 Ed., § 47-2009.

1973 Ed., § 47-2606.

## § 47-2010. Presumption of taxability.

It shall be presumed that all receipts from the sale of tangible personal property and services mentioned in this chapter are subject to tax until the contrary is established, and the burden of proving that a receipt is not taxable hereunder shall be upon the vendor or the purchaser as the case may be. Except as provided in § 47-2005(3), unless the vendor shall have taken from the purchaser a certificate signed by and bearing the name and address of the purchaser and the number of his registration certificate to the effect that the property or service was purchased for resale or the property or service is exempt under § 47-2005, the receipts from all sales shall be deemed taxable. The certificate herein required shall be in such form as the Mayor shall prescribe and, in case no certificate is furnished or obtained prior to the time the sale is consummated, the tax shall apply to the gross receipts therefrom as if the sale were made at retail.

(May 27, 1949, 63 Stat. 117, ch. 146, title I, § 130; July 24, 1982, D.C. Law 4-131, § 223, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 102(d), 48 DCR 334.)



**Cross references.** — Compensating-use tax, collection of tax by vendor, see § 47-2203.

Compensating-use tax, nonresident vendors, see § 47-2204.

**Prior Codifications.** — 1981 Ed., § 47-2010.

1973 Ed., § 47-2607.

**Effect of amendments.** — D.C. Law 13-305, in the second sentence, substituted “the property or service was purchased for resale or the property or service is exempt under 47-2005,” for “the property or service was purchased for resale.”

**Legislative history of Law 4-131.** — For legislative history of D.C. Law 4-131, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor’s notes.** — Section 103 of D.C. Law 13-305 provided: “Sec. 103. Applicability. Section 102(a) through (c) shall apply beginning April 1, 2001. Section 102(d) shall apply beginning October 1, 2001.”

## § 47-2011. Tax a personal debt; period of limitation; liens. [Repealed].

Repealed.

(May 27, 1949, 63 Stat. 117, ch. 146, title I, § 131; July 24, 1982, D.C. Law 4-131, § 206, 29 DCR 2418; Feb. 28, 1987, D.C. Law 6-209, § 405(a), 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(ff)(2), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-2011.

1973 Ed., § 47-2608.

**Legislative history of Law 4-131.** — For legislative history of D.C. Law 4-131, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 6-209.** — Law 6-209, the “Tax Amnesty Act of 1986,” was introduced in Council and assigned Bill No. 6-398, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 25, 1986 and December 16, 1986 respectively. Signed by

the Mayor on January 8, 1987, it was assigned Act No. 6-269 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Effective date.** — Section 601(b) of D.C. Law 6-209 provided that title III and sections 401, 402, 404, 405 and 406 of the act shall take effect on October 1, 1987.

**Editor’s notes.** — Section 410(e) of D.C. Law 13-305 provided: “Section 406(b), (d), (f), (l), (n), (o), (r), (v), (x) through (aa), (cc), (ff), (gg), (ll), (pp), (vv), (ww), (aaa), (ccc), (eee), and (ggg) shall apply as of January 1, 2001.”

## § 47-2012. Tax a preferred claim; priority over property taxes.

Whenever the business or property of any person subject to tax under the terms of this chapter, shall be placed in receivership or bankruptcy, or assignment is made for the benefit of creditors, or if said property is seized under distraint for property taxes, all taxes, penalties, and interest imposed by this chapter for which said person is in any way liable shall be a prior and preferred claim. Neither the United States Marshal, nor a receiver, assignee, or any other officer shall sell the property of any person subject to tax under the terms of this chapter under process or order of any court without first determining from the Collector the amount of any such taxes due and payable by said person, and if there be any such taxes due, owing, or unpaid under this chapter, it shall be the duty of such officer to first pay to the Collector the amount of said taxes out of the proceeds of said sale before making any payment of any moneys to any judgment creditor or other claimants of



whatsoever kind or nature. Any person charged with the administration or distribution of any such property as aforesaid who shall violate the provisions of this section shall be personally liable for any taxes accrued and unpaid which are chargeable against the person otherwise liable for tax under the terms of this section.

(May 27, 1949, 63 Stat. 117, ch. 146, title I, § 132; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2012.  
1973 Ed., § 47-2609.

**Editor's notes.** — Office of Collector of Taxes abolished: See Historical and Statutory Notes following § 47-401.

## CASE NOTES

### ANALYSIS

In general.

Perfected security interests.

### In general.

Under District of Columbia law, which was being applied as the federal standard to determine priority to proceeds of bankruptcy estate, District of Columbia lien for unpaid sales taxes had priority over earlier perfected lien of the Small Business Administration. Bankr.Code, 11 U.S.C. § 724(b)(1); D.C. Code 1981, § 47-2012. *Pearlstein v. U.S. Small Business Admin.*, 719 F.2d 1169, 1983 U.S. App. LEXIS 16068 (C.A.D.C. 1983).

As a federal statute, District of Columbia sales tax law creates an exception to the general federal priority followed in the federal lien doctrine in bankruptcy cases, allowing a District of Columbia sales tax lien to take priority. *IRS v. District of Columbia (In re WPG, Inc.)*, 282 B.R. 66, 2002 U.S. Dist. LEXIS 15495 (2002).

Lien against Chapter 11 debtor's property arising under District of Columbia sales tax law took precedence over general federal tax lien, in that sales tax law was enacted later, was more specific, and was more limited in scope than federal tax law. *IRS v. District of Columbia (In re WPG, Inc.)*, 282 B.R. 66, 2002 U.S. Dist. LEXIS 15495 (2002).

District of Columbia law which gives the District a preferred claim for sales and use taxes, whenever property of any person subject to tax is placed in receivership or bankruptcy, trumped the general "first in time, first in right" rule for determining lien priority, and required that the District's lien for unpaid sales and use taxes be accorded priority over federal government's prior income tax liens. *WPG, Inc. v. IRS (In re WPG, Inc.)*, 266 B.R. 773, 2001 Bankr. LEXIS 882 (2001), affirmed by 282 B.R. 66, 2002 U.S. Dist. LEXIS 15495, 90 A.F.T.R.2d (RIA) 5881, 90 A.F.T.R.2d (RIA) 6196, Bankr. L. Rep. (CCH) P78714 (D.D.C. 2002).

District of Columbia statute concerning priority for tax liens was not applicable in bankruptcy proceedings, as it was not enacted to affect federal proceedings. D.C. Code 1981, § 47-2012. *Pearlstein v. Small Business Admin.*, 27 B.R. 153, 1982 U.S. Dist. LEXIS 17308 (1982), reversed by 719 F.2d 1169, 231 U.S. App. D.C. 250, 1983 U.S. App. LEXIS 16068, 11 Bankr. Ct. Dec. (LRP) 544, Bankr. L. Rep. (CCH) P69433, 9 Collier Bankr. Cas. 2d (MB) 1134, 37 U.C.C. Rep. Serv. (CBC) 533 (1983).

### Perfected security interests.

Perfected security interest senior in time to a District of Columbia tax lien takes priority under the Bankruptcy Code. Bankr.Code, 11 U.S.C. § 724(b); D.C. Code 1981, § 47-2012; Bankr.Act, § 1 et seq. 11 U.S.C. (1976 Ed.) § 1 et seq. *Pearlstein v. Small Business Admin.*, 27 B.R. 153, 1982 U.S. Dist. LEXIS 17308 (1982), reversed by 719 F.2d 1169, 231 U.S. App. D.C. 250, 1983 U.S. App. LEXIS 16068, 11 Bankr. Ct. Dec. (LRP) 544, Bankr. L. Rep. (CCH) P69433, 9 Collier Bankr. Cas. 2d (MB) 1134, 37 U.C.C. Rep. Serv. (CBC) 533 (1983).

The perfected security interest of the Small Business Administration did not take priority over the claim of the District of Columbia government for unpaid taxes, despite fact that the SBA security interest arose prior to the sales tax lien of the District of Columbia, since District of Columbia law makes the District's claim for taxes absolute in priority. D.C. Code 1973, § 28:9-102(2); § 47-2609 (now § 47-2012). *In re Sardis, Inc.*, 17 B.R. 660, 1982 Bankr. LEXIS 4831 (1982), reversed by 27 B.R. 153, 1982 U.S. Dist. LEXIS 17308, 11 Bankr. Ct. Dec. (LRP) 544, Bankr. L. Rep. (CCH) P68912, 8 Collier Bankr. Cas. 2d (MB) 267, 9 Collier Bankr. Cas. 2d (MB) 1134, 35 U.C.C. Rep. Serv. (CBC) 1280 (D.D.C. 1982).

Statute, which provided in effect that if there were any sales taxes due, it would be duty of officer to first pay to the Collector the amount of

such taxes out of proceeds of sale before making any payment to judgment creditor or other claimants, gave District of Columbia's claims for sales taxes absolute priority over all other incumbrances, and thus, such a claim took

precedence over a prior protected security interest. D.C. Code 1973, § 47-2609. *Malakoff v. Washington*, 434 A.2d 432, 1981 D.C. App. LEXIS 348 (1981).

## § 47-2013. Collection of tax; liens; jeopardy assessments; distraint. [Repealed].

Repealed.

(May 27, 1949, 63 Stat. 118, ch. 146, title I, § 133; July 24, 1982, D.C. Law 4-131, § 223, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(ff)(2), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-2013.

1973 Ed., § 47-2610.

**Legislative history of Law 4-131.** — For legislative history of D.C. Law 4-131, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor's notes.** — Office of Collector of Taxes abolished: See Historical and Statutory Notes following § 47-401.

Section 410(e) of D.C. Law 13-305 provided: "Section 406(b), (d), (f), (l), (n), (o), (r), (v), (x) through (aa), (cc), (ff), (gg), (ll), (pp), (vv), (ww), (aaa), (ccc), (eee), and (ggg) shall apply as of January 1, 2001."

## § 47-2014. Assumption or refund of tax by vendor unlawful; penalties.

It shall be unlawful for any vendor to advertise or hold out or state to the public or to any customer directly or indirectly that the reimbursement of tax or any part thereof to be collected by the vendor under this chapter will be assumed or absorbed by the vendor or that it will not be added to the selling price of the property sold or the taxable services rendered, or if added to said price that it, or any part thereof, will be refunded. Any person violating any provision of this section shall upon conviction be fined not more than \$500, or imprisoned for not more than 6 months, or both, for each offense.

(May 27, 1949, 63 Stat. 118, ch. 146, title I, § 134; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Compensating-use tax, assumption or refund of tax by vendor unlawful, applicability of this section, see § 47-2209.

**Prior Codifications.** — 1981 Ed., § 47-2014.

1973 Ed., § 47-2611.

## § 47-2015. Monthly returns.

(a) On or before the 20th day of each calendar month, every vendor who has made any sale at retail, taxable under the provisions of this chapter, during the preceding calendar month, shall file a return with the Mayor. Such returns shall show the total gross proceeds of the vendor's business for the month for which the return is filed; the gross receipts of the business of the vendor upon which the tax is computed; the amount of tax for which the vendor is liable and



such other information as the Mayor deems necessary for the computation and collection of the tax.

(a-1) For purposes of this chapter and Chapter 22, a room remarketer is a vendor only with respect to additional charges and shall file returns and remit tax with respect to such additional charges only. The room remarketer shall also collect the tax imposed by this chapter and Chapter 22 with respect to net charges and shall remit the tax to the operator of the hotel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration. The operator shall be deemed to be a vendor with respect to such net charges and shall file returns and remit tax with respect to such net charges.

(b) The Mayor may permit or require the returns to be made for other periods and upon such other dates as he may specify; provided, that the gross receipts during any tax year shall be included in returns covering such year and no other.

(c) The form of returns shall be prescribed by the Mayor and shall contain such information as he may deem necessary for the proper administration of this chapter. The Mayor may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.

(May 27, 1949, 63 Stat. 118, ch. 146, title I, § 135; July 24, 1982, D.C. Law 4-131, § 223, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Sept. 14, 2011, D.C. Law 19-21, § 7002(a)(4), 58 DCR 6226.)

**Cross references.** — Compensating-use tax, returns and payment of tax, applicability of this section, see § 47-2210.

Real property assessment and tax, classes of property, disputed occupancy of improved real property, see § 47-813.

**Prior Codifications.** — 1981 Ed., § 47-2015.

1973 Ed., § 47-2612.

**Effect of amendments.** — D.C. Law 19-21 added subsec. (a-1).

**Temporary Amendment of Section.** — Section 9 of D.C. Law 19-53 amended subsec. (a-1) to read as follows:

“(a-1) For purposes of this chapter and Chapter 22, a room remarketer shall be deemed a vendor with respect to additional charges and shall file returns and remit tax with respect to such additional charges. The room remarketer shall collect and remit the tax imposed by this chapter and Chapter 22 with respect to the net charges for the accommodations to the operator of the hotel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration. The operator shall be deemed a vendor with respect to such net charges and shall file returns and remit tax with respect to such net charges.”

Section 15(b) of D.C. Law 19-53 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 7002(a)(4) of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

For temporary (90 day) amendment of section, see § 9 of Revised Fiscal Year 2012 Budget Support Technical Clarification Emergency Amendment Act of 2011 (D.C. Act 19-157, October 4, 2011, 58 DCR 8688).

For temporary (90 day) amendment of section, see § 7113 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 7113 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

**Legislative history of Law 4-131.** — For legislative history of D.C. Law 4-131, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 47-305.02.



## § 47-2016. Payment of tax.

(a) At the time of filing his return as provided by this chapter, the taxpayer shall pay to the Collector the taxes imposed by this chapter.

(b) The taxes for the period for which a return is required to be filed by a vendor under this chapter shall be due by the vendor and payable to the Collector on the date limited for the filing of the return for such period, without regard to whether a return is filed or whether the return which is filed correctly shows the amount of gross receipts and taxes due thereon.

(May 27, 1949, 63 Stat. 118, ch. 146, title I, § 136; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Compensating-use tax, returns and payment of tax, applicability of this section, see § 47-2210.

**Prior Codifications.** — 1981 Ed., § 47-2016.

1973 Ed., § 47-2613.

**Editor's notes.** — Office of Collector of Taxes abolished: See Historical and Statutory Notes following § 47-401.

## § 47-2017. Annual returns.

On or before 30 days after the end of the tax year of each vendor required to pay to the Collector the tax imposed by the provisions of this chapter, such vendor shall make an annual return for such tax year in such form as may be required by the Mayor. The Mayor for good cause shown may on the written application of a vendor extend the time for making any return required by this section.

(May 27, 1949, 63 Stat. 119, ch. 146, title I, § 137; July 24, 1982, D.C. Law 4-131, § 223, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Compensating-use tax, returns and payment of tax, applicability of this section, see § 47-2210.

**Prior Codifications.** — 1981 Ed., § 47-2017.

1973 Ed., § 47-2614.

**Legislative history of Law 4-131.** — For

legislative history of D.C. Law 4-131, see Historical and Statutory Notes following § 47-2001.

**Editor's notes.** — Office of Collector of Taxes abolished: See Historical and Statutory Notes following § 47-401.

## § 47-2018. Secrecy of returns; reciprocity.

(a)(1) Except to any official of the District, having a right thereto in his official capacity, it shall be unlawful for any officer or employee, or any former officer or employee, of the District to divulge or make known in any manner the amount of gross proceeds or tax due or any particulars relating thereto or the computation thereof set forth or disclosed in any return required to be filed under this chapter, and neither the original nor a copy of any return desired for use in litigation in court shall be furnished where neither the District nor the United States is interested in the result of such litigation, whether or not the request is contained in an order of the court; provided, however, that nothing herein contained shall be construed to prevent the furnishing to a taxpayer a copy of his return upon the payment of a fee of \$3.50.

(2) The provisions of paragraph (1) of this subsection shall also apply to any state or local sales tax returns, copies thereof, and any other state or local sales tax information either submitted by the taxpayer or otherwise obtained. The provisions of paragraph (1) of this subsection shall not apply to any applications for exemption and their required related financial statements for persons which have been granted exemption under this chapter.

(3) Whenever it is necessary for the District to enter into contracts for the purpose of processing, storing, transmitting, or reproducing tax returns required by this chapter, such returns may be disclosed to the contractor to the extent needed in connection with the processing, storing, transmitting, or reproducing of such tax returns. The provisions of subsections (a) and (d) of this section shall apply to all such contractors, their officers and employees, and to all such former contractors, former officers, and former employees.

(b) Nothing contained in subsection (a) of this section shall be construed to prohibit the publication of notices authorized in this chapter or the publication of statistics so classified as to prevent the identification of particular returns or reports and the items thereof, or the publication of delinquent lists showing the names of persons, vendors, or purchasers who have failed to pay the taxes imposed by this chapter within the time prescribed herein, together with any relevant information which in the opinion of the Mayor may assist in the collection of such delinquent taxes.

(c) Nothing contained in subsection (a) of this section shall be construed to prohibit the Mayor, in his discretion, from divulging or making known any information contained in any report, application, or return required under the provisions of this chapter other than such information as may be contained therein relating to the amount of gross proceeds or tax thereon or any particulars relating thereto or the computation thereof.

(d) Any violation of the provisions of subsection (a) of this section shall be punishable by a fine not exceeding \$1,000, or imprisonment for 1 year, or both, in the discretion of the court.

(e) Notwithstanding the provisions of this section, the Mayor may permit the proper officer of the United States or of any state or territory of the United States or his authorized representative to inspect the returns filed under this chapter, or may furnish to such officer or representative a copy of any such return, provided the United States, state, or territory grants substantially similar privileges to the Mayor or his representative or to the proper officer of the District charged with the administration of this chapter.

(f) All reports, applications, and returns received by the Mayor under the provisions of this chapter shall be preserved for 3 years and thereafter until the Mayor orders them to be destroyed.

(May 27, 1949, 63 Stat. 119, ch. 146, title I, § 138; Mar. 16, 1978, D.C. Law 2-57, § 4, 24 DCR 5426; July 24, 1982, D.C. Law 4-131, §§ 207, 223, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Compensating-use tax, returns and payment of tax, applicability of this section, see § 47-2210.

Housing redevelopment, leases, displaced businesses, priority of opportunity to lease, copy of sales tax return furnished to Agency, see



§ 6-321.04.

**Prior Codifications.** — 1981 Ed., § 47-2018.

1973 Ed., § 47-2615.

**Legislative history of Law 2-57.** — Law 2-57, the “Tax Certificate Issuance and Return Duplicating User Charges Act of 1977,” was introduced in Council and assigned Bill No. 2-201, which was referred to the Committee on Finance and Revenue. The Bill was adopted on

first and second readings on November 8, 1977 and November 22, 1977, respectively. Signed by the Mayor on December 15, 1977, it was assigned Act No. 2-122 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 4-131.** — For legislative history of D.C. Law 4-131, see Historical and Statutory Notes following § 47-2001.

## § 47-2019. Determination of deficiencies.

If a return required by this chapter is not filed, or if a return when filed is incorrect or insufficient, the amount of tax due shall be determined by the Mayor from such information as may be obtainable. Assessments of any deficiencies in the tax due under this chapter, or any interest and penalties thereon, shall be governed by § 47-4312.

(May 27, 1949, 63 Stat. 119, ch. 146, title I, § 139; July 24, 1982, D.C. Law 4-131, § 223, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Dec. 7, 2004, D.C. Law 15-217, § 4(c), 51 DCR 9126.)

**Section references.** — This section is referred to in §§ 47-2007, 47-2021, and 47-2213.

**Prior Codifications.** — 1981 Ed., § 47-2019.

1973 Ed., § 47-2616.

**Effect of amendments.** — D.C. Law 15-217 rewrote the section.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(c) of Office of Administrative Hearings Establishment Emergency Amendment Act of 2004 (D.C. Act 15-513, August 2, 2004, 51 DCR 8976).

For temporary (90 day) amendment of section, see § 3(c) of Office of Administrative Hearings Establishment Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-553, October 26, 2004, 51 DCR 10359).

**Legislative history of Law 4-131.** — For legislative history of D.C. Law 4-131, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 15-217.** — For Law 15-217, see notes following § 47-1528.

## § 47-2020. Refunds.

(a) Any tax that has been erroneously or illegally collected shall be refunded if application under oath is filed with the Mayor for such refund within 3 years from the payment thereof. For like cause and within the same period a refund may be made upon the certificates of the Mayor and the Collector. Whenever a refund is made upon the certificates of the Mayor and the Collector, the Mayor and Collector shall state their reasons therefor in writing. Such application may be made by the person upon whom such tax was imposed and who has actually paid the tax. When an application is made by a vendor who has collected reimbursement of such tax, no actual refund of monies shall be made to such vendor, until he shall first establish to the satisfaction of the Mayor, under such regulations as the Mayor may prescribe, that the vendor has repaid to the purchaser the amount for which the application for refund is made. In lieu of any refund required to be made, a credit may be allowed therefor on payment due from the applicant.

(b) Credit may be taken against gross sales taxable under this chapter for amounts represented by accounts found to be worthless and actually charged off for income or franchise tax purposes; provided, however, that:



- (1) The tax on such amounts has been previously paid to the District;
  - (2) Any such amounts so deducted from taxable sales prior to the date of write-off which may be thereafter collected shall be included in the first return filed after such collection and the amounts of tax paid thereon;
  - (3) Such amounts may not be deducted more than 3 years after the payment of the tax on such amounts; and
  - (4) In the event such amounts exceed the taxable sales for the reporting period, a refund may be applied for under subsection (a) of this section.
- (c) Application for a refund or credit made as herein provided shall be deemed an application for a revision of any tax, penalty, or interest complained of and the Mayor may receive evidence with respect thereto. After making his determination of whether any refund shall be made, the Mayor shall give notice thereof to the applicant.
- (d) Repealed.

(May 27, 1949, 63 Stat. 120, ch. 146, title I, § 140; July 24, 1982, D.C. Law 4-131, §§ 208, 223, 29 DCR 2418; May 21, 1988, D.C. Law 7-121, § 4, 35 DCR 2695; Sept. 30, 1993, D.C. Law 10-25, § 111(j), 40 DCR 5489; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Oct. 22, 2009, D.C. Law 18-71, § 12(c)(2), 56 DCR 6619.)

**Section references.** — This section is referred to in §§ 47-2006, 47-2007, and 47-2213.

**Prior Codifications.** — 1981 Ed., § 47-2020.

1973 Ed., § 47-2617.

**Effect of amendments.** — D.C. Law 18-71 repealed subsec. (d).

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 111(j) of Omnibus Budget Support Temporary Act of 1993 (D.C. Law 10-11, August 6, 1993, law notification 40 DCR 6213).

Section 11(c)(2) of D.C. Law 17-172 repealed subsec. (d).

Section 13(b) of D.C. Law 17-172 provided that the act shall expire after 225 days of its having taken effect.

Section 10(c)(2) of D.C. Law 18-4 repealed subsec. (d).

Section 12(b) of D.C. Law 18-4 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 10(c)(2) of Vending Regulation Emergency Act of 2008 (D.C. Act 17-322, March 19, 2008, 55 DCR 3445).

For temporary (90 day) amendment of section, see § 10(c)(2) of Vending Regulation Emergency Act of 2009 (D.C. Act 18-9, January 29, 2009, 56 DCR 1638).

For temporary (90 day) amendment of section, see § 10(c)(2) of Vending Regulation Con-

gressional Review Emergency Act of 2009 (D.C. Act 18-47, April 27, 2009, 56 DCR 3574).

**Legislative history of Law 4-131.** — For legislative history of D.C. Law 4-131, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 7-121.** — Law 7-121, the “Vendors Regulation Amendment Act of 1988,” was introduced in Council and assigned Bill No. 7-303, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 1, 1988 and March 15, 1988, respectively. Signed by the Mayor on March 31, 1988, it was assigned Act No. 7-167 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 10-25.** — For legislative history of D.C. Law 10-25, see Historical and Statutory Notes following § 47-2002.01.

**Legislative history of Law 18-71.** — For Law 18-71, see notes following § 47-2002.01.

**Effective date.** — Section 601(b) of D.C. Law 4-131 provided that the amendment of subsection (b) and the addition of subsection (c), for assessing penalty and interest, shall take effect on the first day of the first month which begins more than 30 days after July 24, 1982. Section 601(c) of D.C. Law 4-131 provided that the amendment of the first sentence of subsection (a) shall take effect with respect to sales and the use taxes paid after July 24, 1982.

CASE NOTES

**Jurisdiction.**

Under Federal Tax Injunction Act, Federal District Court had no jurisdiction over taxpayers' action for refund or § 1983 damages in connection with sales and use tax enacted in order to finance building of new convention center; District of Columbia provided taxpayers

with adequate administrative remedy and right to judicial challenge. 18 U.S.C. § 1341; 42 U.S.C. § 1983; D.C. Code 1981, § 47-2020(a). *Jenkins v. Washington Convention Ctr.*, 59 F.Supp.2d 78, 1999 U.S. Dist. LEXIS 12672 (1999), affirmed by 236 F.3d 6, 344 U.S. App. D.C. 315, 2001 U.S. App. LEXIS 576 (2001).

§ 47-2021. Appeals.

(a) Any person aggrieved by a final determination of tax or by a denial of a claim for refund (other than a refund of tax finally determined under § 47-2019) may, within 6 months from the date of final determination or from the date of the denial of a claim for refund appeal to the Superior Court of the District of Columbia in the same manner and to the same extent as set forth in §§ 47-3303, 47-3304, 47-3306, 47-3307, and 47-3308.

(b) If it is determined by the Mayor or by the Superior Court that any part of any tax which was assessed as a deficiency, and any interest thereon paid by the taxpayer, was an overpayment, interest shall be allowed and paid on the overpayment of tax at the rate provided for in § 47-3310(c) per annum from the date the overpayment was paid until the date of refund.

(May 27, 1949, 63 Stat. 120, ch. 146, title I, § 141; July 29, 1970, 84 Stat. 581, Pub. L. 91-358, title I, § 161(d)(3); Sept. 13, 1980, D.C. Law 3-92, § 201(d), 27 DCR 3390; July 24, 1982, D.C. Law 4-131, §§ 209, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Section references.** — This section is referred to in § 47-2213.

**Prior Codifications.** — 1981 Ed., § 47-2021.

1973 Ed., § 47-2618.

**Legislative history of Law 3-92.** — For

legislative history of D.C. Law 3-92, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 4-131.** — For legislative history of D.C. Law 4-131, see Historical and Statutory Notes following § 47-2001.

§ 47-2022. Sales in bulk. [Repealed].

Repealed.

(May 27, 1949, 63 Stat. 121, ch. 146, title I, § 142; July 24, 1982, D.C. Law 4-131, §§ 210, 223, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(gg)(2), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-2022.

1973 Ed., § 47-2619.

**Legislative history of Law 4-131.** — For legislative history of D.C. Law 4-131, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor's notes.** — Section 410(e) of D.C. Law 13-305 provided: "Section 406(b), (d), (f), (l), (n), (o), (r), (v), (x) through (aa), (cc), (ff), (gg), (ll), (pp), (vv), (ww), (aaa), (ccc), (eee), and (ggg) shall apply as of January 1, 2001."



## § 47-2023. Rules and regulations.

The Mayor may issue rules and regulations to carry out the purposes of this chapter.

(May 27, 1949, 63 Stat. 121, ch. 146, title I, § 143; July 24, 1982, D.C. Law 4-131, § 211, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Tax rates, records and surplus funds, authority of Council to change certain tax rates, see § 47-504.

**Section references.** — This section is referred to in § 47-

**Prior Codifications.** — 1981 Ed., § 47-2023.

1973 Ed., § 47-2620.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 12(aaa) of Tax Clarity and Recorder of Deeds Temporary Act of 2002 (D.C. Law 14-191, October 5, 2002, law notification 49 DCR 9549).

For temporary (225 day) amendment of section, see § 12(aaa) of Tax Clarity and Related Amendments Temporary Act of 2003 (D.C. Law 14-228, March 23, 2003, law notification 50 DCR 2741).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 12(zz) of Tax Clarity and Recorder of Deeds Emergency Act of 2002 (D.C. Act 14-381, June 6, 2002, 49 DCR 5674).

For temporary (90 day) amendment of section, see § 12(aaa) of Tax Clarity and Related Amendments Emergency Act of 2002 (D.C. Act 14-456, July 23, 2002, 49 DCR 8107).

For temporary (90 day) amendment of section, see § 12(aaa) of Tax Clarity and Related Amendments Congressional Review Emergency Act of 2002 (D.C. Act 14-510, October 23, 2002, 49 DCR 10247).

**Legislative history of Law 4-131.** — For legislative history of D.C. Law 4-131, see Historical and Statutory Notes following § 47-2001.

## § 47-2024. Additional powers.

In addition to the powers granted to the Mayor in this chapter, he, and the Council of the District of Columbia with respect to paragraphs (3) and (4) of this section, are hereby authorized and empowered:

(1)(A) To extend for cause shown the time of filing any return for a period not exceeding 30 days; provided, however, that the provisions regarding interest imposed per month or fraction thereof contained in § 47-4213 shall apply to any tax paid under an extension of time granted;

(B) For cause shown, to remit penalties and interest in whole or in part except as otherwise provided in this chapter; and

(C) To compromise disputed claims in connection with the tax hereby imposed;

(2) To request information from the Internal Revenue Service of the Treasury Department of the United States relative to any person for the purpose of assessing taxes imposed by this chapter; and said Internal Revenue Service is authorized and required to supply such information as may be requested by the Mayor relative to any person for the purpose herein provided;

(3) To prescribe methods for determining the gross proceeds from sales made or services rendered and for the allocation of such sales into taxable and nontaxable sales;

(4) To require any vendor selling to persons within the District to keep detailed records of the nature and value of personal property sold for use within the District, and to furnish such information upon request to the Mayor;



(5) To assess, determine, revise, and readjust the taxes imposed under this chapter; and

(6) To revoke, for reasonable cause, any registration certificate issued under the provisions of this chapter.

(May 27, 1949, 63 Stat. 121, ch. 146, title I, § 144; Sept. 13, 1980, D.C. Law 3-92, § 201(e), 27 DCR 3390; July 24, 1982, D.C. Law 4-131, §§ 212, 223, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(hh), 48 DCR 334.)

**Section references.** — This section is referred to in § 47-22135.

**Prior Codifications.** — 1981 Ed., § 47-2024.

1973 Ed., § 47-2621.

**Effect of amendments.** — D.C. Law 13-305, in par. (1)(A), substituted “47-4213” for “47-2027(a)”.

**Legislative history of Law 3-92.** — For legislative history of D.C. Law 3-92, see Historical and Statutory Notes following § 2001.

**Legislative history of Law 4-131.** — For legislative history of D.C. Law 4-131, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**References in text.** — The Bureau of Internal Revenue, originally referred to twice in paragraph (2) of this section, was replaced by the Internal Revenue Service by Treasury Department Order 150-29.

**Editor’s notes.** — Section 410(d) of D.C. Law 13-305 provided: “Section 406(a), (c), (j), (m), (p), (q), (s), (w), (bb), (dd), (ee), (hh) through (kk), (mm) through (oo), (qq) through (uu), (yy), (zz), (bbb), (ddd), and (fff) shall apply for all tax years or taxable periods beginning after December 31, 2000.”

## § 47-2025. Examination of records and witnesses. [Repealed].

Repealed.

(May 27, 1949, 63 Stat. 122, ch. 146, title I, § 145; July 29, 1970, 84 Stat. 573, Pub. L. 91-358, title I, § 155(c)(52); July 24, 1982, D.C. Law 4-131, § 223, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(ii)(2), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-2025.

1973 Ed., § 47-2622.

**Legislative history of Law 4-131.** — For legislative history of D.C. Law 4-131, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor’s notes.** — Section 410(d) of D.C. Law 13-305 provided: “Section 406(a), (c), (j), (m), (p), (q), (s), (w), (bb), (dd), (ee), (hh) through (kk), (mm) through (oo), (qq) through (uu), (yy), (zz), (bbb), (ddd), and (fff) shall apply for all tax years or taxable periods beginning after December 31, 2000.”

## § 47-2026. Certificate of registration.

(a) No person shall engage or continue to engage in the business of making any retail sales subject to tax under the provisions of this chapter without having obtained a certificate of registration therefor. If 2 or more persons constitute a single vendor as defined in this chapter, such persons may operate a single retail establishment under 1 certificate of registration and in such case neither the death or retirement of 1 or more of such persons from business in such establishment nor the entrance of 1 or more persons therein shall affect

the certificate of registration for a period of 60 days or require the issuance of a new certificate until the expiration of such period.

(b) Each applicant for a certificate required by this section shall make out and deliver to the Mayor, upon a blank to be furnished by him for that purpose, a statement showing the name of the applicant, each retail establishment where the applicant's business is to be conducted, the kind or nature of such business and such other information as the Mayor may prescribe. Upon receipt of such application the Mayor shall issue the applicant, without charge, a certificate of registration for each retail establishment designated in the application, authorizing the applicant to engage in business at such retail establishment. The certificate of registration shall be nontransferable except as otherwise provided in this chapter, and shall be displayed in the applicant's place of business. The form of such certificate of registration shall be prescribed by the Mayor.

(c) In the case of a vendor who has no fixed place of business and sells from 1 or more vehicles, each such vehicle shall constitute a retail establishment for the purpose of this chapter. In the case of a vendor who has no fixed place of business and does not sell from a vehicle, the application for a certificate of registration shall set forth the address to which any notice or other communication authorized by this chapter may be sent to the applicant, and the place so designated shall constitute a retail establishment for the purposes of this chapter.

(d) Whoever engages in the business of selling tangible personal property at retail, or makes any sale which is subject to tax under the provisions of this chapter without having a certificate of registration therefor, as required by this section, shall, upon conviction thereof, be fined not more than \$50 for each and every separate day on which said retail sales are made without possession of such registration certificate.

(May 27, 1949, 63 Stat. 122, ch. 146, title I, § 146; July 24, 1982, D.C. Law 4-131, §§ 213, 223, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2026.

1973 Ed., § 47-2623.

**Legislative history of Law 4-131.** — For

legislative history of D.C. Law 4-131, see Historical and Statutory Notes following § 47-2001.

#### CASE NOTES

##### **In general.**

Retail purchaser of carpet had duty to pay use tax to seller, even though seller had not obtained required certificate of registration at

time of sale. D.C. Code 1981, § 47-2026. *J. Frog, Ltd. v. Fleming*, 598 A.2d 735, 1991 D.C. App. LEXIS 299 (1991).

## § 47-2027. Certificate of Mayor; presumptions.

The certificate of the Mayor to the effect that a tax has not been paid, that a return has not been filed, that a registration certificate has not been obtained, or that information has not been supplied under the provisions of

this chapter shall be presumptive evidence thereof; provided, that the presumptions created by this subsection shall not be applicable in criminal prosecutions.

(May 27, 1949, 63 Stat. 123, ch. 146, title I, § 147; July 10, 1952, 66 Stat. 543, ch. 649, § 2(c); Oct. 31, 1969, 83 Stat. 171, Pub. L. 91-106, title I, § 107; Sept. 13, 1980, D.C. Law 3-92, § 201(f), 27 DCR 3390; July 24, 1982, D.C. Law 4-131, § 214, 29 DCR 2418; Feb. 28, 1987, D.C. Law 6-209, § 405(b), 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(jj)(2), 48 DCR 334.)

**Section references.** — This section is referred to in § 47-2213.

**Prior Codifications.** — 1981 Ed., § 47-2027.

1973 Ed., § 47-2624.

**Effect of amendments.** — D.C. Law 13-305 rewrote the section.

**Legislative history of Law 3-92.** — For legislative history of D.C. Law 3-92, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 4-131.** — For legislative history of D.C. Law 4-131, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 6-209.** — For legislative history of D.C. Law 6-209, see His-

torical and Statutory Notes following § 47-2011.

**Legislative history of Law 13-305.** — For Law 13-305, see notes following § 47-901.

**Effective date.** — Section 601(b) of D.C. Law 6-209 provided that title III and sections 401, 402, 404, 405 and 406 of the act shall take effect on October 1, 1987.

**Editor's notes.** — Section 410(d) of D.C. Law 13-305 provided: "Section 406(a), (c), (j), (m), (p), (q), (s), (w), (bb), (dd), (ee), (hh) through (kk), (mm) through (oo), (qq) through (uu), (yy), (zz), (bbb), (ddd), and (fff) shall apply for all tax years or taxable periods beginning after December 31, 2000."

## § 47-2028. Additional penalties for failure to comply with chapter. [Repealed].

Repealed.

(May 27, 1949, 63 Stat. 123, ch. 146, title I, § 148; Apr. 19, 1977, D.C. Law 1-124, title VI, § 601, 23 DCR 8749; July 24, 1982, D.C. Law 4-131, § 215, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Oct. 4, 2000, D.C. Law 13-204, § 2(c), 47 DCR 5799.)

**Prior Codifications.** — 1981 Ed., § 47-2028.

1973 Ed., § 47-2625.

**Legislative history of Law 1-124.** — Law 1-124, the "Revenue Act For Fiscal Year 1978," was introduced in Council and assigned Bill No. 1-375, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 3, 1976 and December 17, 1976, respectively.

Signed by the Mayor on January 25, 1977, it was assigned Act No. 1-226 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 4-131.** — For legislative history of D.C. Law 4-131, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 13-204.** — For Law 13-204, see notes under § 47-1534.

## § 47-2029. Assessment of and limitations on deficiencies. [Repealed].

Repealed.

(May 27, 1949, 63 Stat. 123, ch. 146, title I, § 149; July 24, 1982, D.C. Law



4-131, § 216, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(kk)(2), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-2029.

1973 Ed., § 47-2626.

**Legislative history of Law 4-131.** — For legislative history of D.C. Law 4-131, see Historical and Statutory Notes following § 47-2001.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor's notes.** — Section 410(d) of D.C. Law 13-305 provided: "Section 406(a), (c), (j), (m), (p), (q), (s), (w), (bb), (dd), (ee), (hh) through (kk), (mm) through (oo), (qq) through (uu), (yy), (zz), (bbb), (ddd), and (fff) shall apply for all tax years or taxable periods beginning after December 31, 2000."

## § 47-2030. Prosecutions. [Repealed].

Repealed.

(May 27, 1949, 63 Stat. 124, ch. 146, title I, § 150; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(kk)(2), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-2030.

1973 Ed., § 47-2627.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor's notes.** — Section 410(d) of D.C.

Law 13-305 provided: "Section 406(a), (c), (j), (m), (p), (q), (s), (w), (bb), (dd), (ee), (hh) through (kk), (mm) through (oo), (qq) through (uu), (yy), (zz), (bbb), (ddd), and (fff) shall apply for all tax years or taxable periods beginning after December 31, 2000."

## § 47-2031. Notices. [Repealed].

Repealed.

(May 27, 1949, 63 Stat. 124, ch. 146, title I, § 151; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(kk)(2), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-2031.

1973 Ed., § 47-2628.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor's notes.** — Section 410(d) of D.C.

Law 13-305 provided: "Section 406(a), (c), (j), (m), (p), (q), (s), (w), (bb), (dd), (ee), (hh) through (kk), (mm) through (oo), (qq) through (uu), (yy), (zz), (bbb), (ddd), and (fff) shall apply for all tax years or taxable periods beginning after December 31, 2000."

## § 47-2032. Extensions of time. [Repealed].

Repealed.

(May 27, 1949, 63 Stat. 124, ch. 146, title I, § 152; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(kk)(2), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-2032.

1973 Ed., § 47-2629.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor's notes.** — Section 410(d) of D.C. Law 13-305 provided: "Section 406(a), (c), (j), (m), (p), (q), (s), (w), (bb), (dd), (ee), (hh) through (kk), (mm) through (oo), (qq) through (uu), (yy), (zz), (bbb), (ddd), and (fff) shall apply for all tax

years or taxable periods beginning after December 31, 2000.”

**§ 47-2033. Dedication of sales tax revenue for the Public School Capital Improvement Fund. [Repealed].**

Repealed.

(June 8, 2006, D.C. Law 16-123, § 121(b), 53 DRC 2843; Mar. 14, 2007, D.C. Law 16-294, § 17, 54 DCR 1086; Sept. 18, 2007, D.C. Law 17-20, § 4042(b)(1), 54 DCR 7052; Sept. 14, 2011, D.C. Law 19-21, § 7012(b)(2), 58 DCR 6226.)

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 4042(b)(1) of Fiscal Year 2008 Budget Support Emergency Act of 2007 (D.C. Act 17-74, July 25, 2007, 54 DCR 7549).

For temporary (90 day) repeal of section, see § 7012(b)(2) of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 16-123.** — Law 16-123, the “School Modernization Financing Act of 2006”, was introduced in Council and assigned Bill No. 16-250 which was referred to the Committees on Education, Libraries, and Recreation and Revenue and Finance. The Bill was adopted on first and second readings on February 7, 2006, and March 7, 2006, respectively. Signed by the Mayor on March 30, 2006, it was assigned Act No. 16-341 and transmitted

to both Houses of Congress for its review. D.C. Law 16-123 became effective on June 8, 2006.

**Legislative history of Law 16-294.** — For Law 16-294, see notes following § 47-1803.02.

**Legislative history of Law 17-20.** — Law 17-20, the “Fiscal Year 2008 Budget Support Act of 2007”, was introduced in Council and assigned Bill No. 17-148 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 15, 2007, and June 5, 2007, respectively. Signed by the Mayor on June 28, 2007, it was assigned Act No. 17-63 and transmitted to both Houses of Congress for its review. D.C. Law 17-20 became effective on September 18, 2007.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 47-305.02.

## CHAPTER 21. CLOSING-OUT SALES.

Sec.	Sec.
47-2101. Definitions.	47-2106. Penalty for conducting false "closing-out sales" and for violation of this chapter; prosecutions.
47-2102. [Repealed].	47-2107. Chapter not applicable to public officials.
47-2103. Purchase of new stocks for use on "closing-out sales" prohibited; presumption.	47-2108. Jurisdiction of Superior Court to enjoin violations of this chapter.
47-2104. Addition of new stocks during "closing-out sales" prohibited.	47-2109. Regulations.
47-2105. Continuation of sale beyond termination date prohibited; extension of termination date; continuation of business at new location prohibited.	47-2110. Preservation of authority; delegation of functions.

## § 47-2101. Definitions.

For the purposes of this chapter:

(1) "Closing-out sale" means and includes any sale in connection with which there is any representation by the person conducting such sale that the sale is being conducted, or is required or compelled to be conducted, for reasons of economic or business distress, inability to continue business at the same location, or the age or health of the owner or owners of the business, and the term "closing-out sale" shall include but not be limited to, all sales advertised, represented, or held forth under the designation of "going out of business," "discontinuance of business," "selling out," "liquidation," "lost our lease," "must vacate," "forced out," "removal," or any other designation of like meaning.

(2) "Person" means and includes individuals, partnerships, voluntary associations, and corporations.

(Sept. 1, 1959, 73 Stat. 449, Pub. L. 86-219, § 1; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2101. 1973 Ed., § 47-3001.

## § 47-2102. License required; application; fee; bond; records; penalty. [Repealed].

Repealed.

(Sept. 1, 1959, 73 Stat. 449, Pub. L. 86-219, § 2; 1973 Ed., § 47-3002; Sept. 14, 1976, D.C. Law 1-82, title I, § 107, 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(1), 46 DCR 3142.)

**Section references.** — This section is referred to in § 47-2104.

**Prior Codifications.** — 1981 Ed., § 47-2102.

1973 Ed., § 47-3002.

**Legislative history of Law 1-82.** — Law 1-82, the "License Fees and Charges Act of 1976," was introduced in Council and assigned

Bill No. 1-237, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 23, 1976 and April 6, 1976, respectively. Signed by the Mayor on June 22, 1976, it was assigned Act No. 1-135 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 12-261.** — Law



12-261, the "Second Omnibus Regulatory Reform Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15,

1998 respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

### § 47-2103. Purchase of new stocks for use on "closing-out sales" prohibited; presumption.

No person in contemplation of a closing-out sale shall order any goods, wares, or merchandise for the purpose of selling and disposing of the same at such sale, and any unusual purchase and additions to the stock of such goods, wares, or merchandise within 60 days prior to the filing of application for a license to conduct such sale shall be presumptive evidence that such purchases and additions to stock were made in contemplation of such sale.

(Sept. 1, 1959, 73 Stat. 450, Pub. L. 86-219, § 3; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(2), 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2103.

1973 Ed., § 47-3003.

**Legislative history of Law 12-261.** — For

legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2102.

### § 47-2104. Addition of new stocks during "closing-out sales" prohibited.

No person carrying on or conducting a closing-out sale or a sale of goods, wares, or merchandise damaged by fire, smoke, water, or otherwise, under a license as provided in § 47-2102 [repealed] shall, during the continuance of such sale, add any goods, wares, or merchandise to the stock inventoried in his original application for such license, and no goods, wares, or merchandise shall be sold at or during such sale, excepting the goods, wares, or merchandise described and inventoried in such original application.

(Sept. 1, 1959, 73 Stat. 450, Pub. L. 86-219, § 4; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2104.

1973 Ed., § 47-3004.

### § 47-2105. Continuation of sale beyond termination date prohibited; extension of termination date; continuation of business at new location prohibited.

No person shall conduct a closing-out sale or a sale of goods, wares, or merchandise damaged by fire, smoke, water, or otherwise beyond the termination date specified for such sale, except that an extension may be authorized upon proper showing of need; nor shall any person, upon conclusion of such

sale, continue that business which had been represented as closing out or going out of business under the same name, or under a different name, at the same location, or elsewhere in the District of Columbia where the inventory for such sale was filed; nor shall any person, upon conclusion of such sale, continue business contrary to the designation of such sale.

(Sept. 1, 1959, 73 Stat. 450, Pub. L. 86-219, § 5; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Section references.** — This section is referred to in § 47-2109. 1973 Ed., § 47-3005.

**Prior Codifications.** — 1981 Ed., § 47-2105.

## § 47-2106. Penalty for conducting false “closing-out sales” and for violation of this chapter; prosecutions.

(a) Any person who shall advertise, hold, conduct, or carry on any sale of goods, wares, or merchandise under the description of closing-out sale or a sale of goods, wares, or merchandise damaged by fire, smoke, water, or otherwise, contrary to the provision of this chapter, or who shall violate any of the provisions of this chapter shall be deemed guilty of a misdemeanor and shall, upon conviction thereof, be fined not more than \$300 or imprisonment for 90 days or both.

(b) Prosecutions for violations of this chapter and regulations promulgated under the authority of this chapter shall be conducted in the name of the District of Columbia by the Attorney General for the District of Columbia or any of his assistants.

(c) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of this chapter, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this chapter shall be pursuant to Chapter 18 of Title 2.

(Sept. 1, 1959, 73 Stat. 450, Pub. L. 86-219, § 6; Oct. 5, 1985, D.C. Law 6-42, § 436, 32 DCR 4450; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 13, 2005, D.C. Law 15-354, § 73(g), 52 DCR 2638.)

**Prior Codifications.** — 1981 Ed., § 47-2106.

1973 Ed., § 47-3006.

**Effect of amendments.** — D.C. Law 15-354 substituted “Attorney General for the District of Columbia” for “Corporation Counsel”.

**Legislative history of Law 6-42.** — Law 6-42, the “Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985,” was introduced in Council and assigned Bill No.

6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

## § 47-2107. Chapter not applicable to public officials.

The provisions of this chapter shall not apply to public or court officers, or to

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### **TAXATION, LICENSING, PERMITS, ETC.**

any other person or persons acting under the license, direction, or authority of any court, local or federal, selling goods, wares, or merchandise in the course of their official duties.

(Sept. 1, 1959, 73 Stat. 451, Pub. L. 86-219, § 7; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2107. 1973 Ed., § 47-3007.

## **§ 47-2108. Jurisdiction of Superior Court to enjoin violations of this chapter.**

Upon complaint of any person, the Superior Court of the District of Columbia shall have jurisdiction in equity to restrain and enjoin any act forbidden or declared illegal by any provisions of this chapter.

(Sept. 1, 1959, 73 Stat. 451, Pub. L. 86-219, § 8; July 29, 1970, 84 Stat. 573, Pub. L. 91-358, title I, § 155(c)(53); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2108. 1973 Ed., § 47-3008.

## **§ 47-2109. Regulations.**

The Council of the District of Columbia is authorized to promulgate regulations to carry out the purposes of this chapter including, without limitation, regulations limiting the period of time a closing-out sale or a sale of goods, wares, or merchandise damaged by fire, smoke, water, or otherwise may be conducted, subject to extension as authorized by § 47-2105; provided, that no such regulation shall be put in effect until after a public hearing has been held thereon.

(Sept. 1, 1959, 73 Stat. 451, Pub. L. 86-219, § 9; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2109. 1973 Ed., § 47-3009.

## **§ 47-2110. Preservation of authority; delegation of functions.**

Nothing in this chapter shall be construed so as to affect the authority vested in the Commissioners by Reorganization Plan No. 5 of 1952 (66 Stat. 824). The performance of any function vested by this chapter in the Commissioners of the District of Columbia or in any office or agency under the jurisdiction and control of the said Commissioners may be delegated by said Commissioners in accordance with § 3 of such Plan.

(Sept. 1, 1959, 73 Stat. 451, Pub. L. 86-219, § 11; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)



**Cross references.** — Mayor, powers and duties, see § 1-204.22. 1973 Ed., § 47-3010.

**Prior Codifications.** — 1981 Ed., § 47-2110.

CHAPTER 22. COMPENSATING-USE TAX.

Sec.

47-2201. Definitions.

47-2202. Imposition of tax.

47-2202.01. Tax on gross receipts for transient lodgings or accommodations; food or drink for immediate consumption; spirits sold for consumption on premises; rental vehicles.

47-2202.02. Tax on gross receipts for transient lodgings or accommodations; food or drink for immediate consumption; spirits sold for consumption on premises; rental vehicles — Collection of tax and transfer to Washington Convention and Sports Authority.

Sec.

47-2203. Collection of tax by vendor.

47-2204. Nonresident vendors.

47-2205. Payment of tax by purchaser.

47-2206. Exemptions.

47-2207. [Repealed].

47-2208. Surety bonds.

47-2209. Assumption or refund of tax by vendor unlawful.

47-2210. Returns and payment of tax.

47-2211. Monthly returns; content and form; payment of tax.

47-2212. Certificate of registration.

47-2213. Incorporation and application of certain provisions of Chapter 20.

47-2214. Application of chapter.

§ 47-2201. Definitions.

(a)(1) “Retail sale”, “sale at retail”, and “sold at retail” mean all sales in any quantity or quantities of tangible personal property, whether made within or without the District, and services, to any person for the purpose of use, storage, or consumption, within the District, taxable under the terms of this chapter. These terms shall mean all sales of tangible personal property to any person for any purpose other than those in which the purpose of the purchaser is to resell the property so transferred in the form in which the same is, or is to be, received by him, or to use or incorporate the property so transferred as a material or part of other tangible personal property to be produced for sale by manufacturing, assembling, processing, or refining. For the purpose of the tax imposed by this chapter, these terms shall include, but shall not be limited to, the following:

(A) Any production, fabrication, or printing of tangible personal property on special order for a consideration;

(B) The sale of natural or artificial gas, oil, electricity, solid fuel or steam;

(C) The sale of material used in the construction, and of materials used in the repair or alteration, of real property, which materials, upon completion of such construction, alterations, or repairs, become real property, regardless of whether or not such real property is to be sold or resold;

(D) The sale or charges for possession or use of any article of tangible personal property granted under a lease or contract, regardless of the length of time of such lease or contract or whether such lease or contract is oral or written; in such event for the purposes of this chapter, such lease or contract shall be considered the sale of such article and the tax shall be computed and paid by the vendor upon the rental paid; provided, however, that the gross proceeds from the rental of films, records, or any type of sound transcribing to theaters and radio and television broadcasting stations shall not be considered a retail sale;

(E) The sale of any meals, food or drink, or other like tangible personal property for a consideration as described in § 47-2001(n)(1)(A);

(F) The sale of or charge for admission to public events except live performances of ballet, dance or choral performances, concerts (instrumental and vocal), plays (with and without music), operas and readings and exhibitions of paintings, sculpture, photography, graphic and craft arts, but including movies, circuses, burlesque shows, sporting events and performances or exhibitions of any other type or nature; provided, that any casual or isolated sale of or charge for admission made by a semi-public institution not regularly engaged in making such sales or charges shall not be considered a retail sale or sale at retail;

(G) The sale of or charges for the service of repairing, altering, mending, or fitting tangible personal property, or applying or installing tangible personal property as a repair or replacement part of other tangible personal property, whether or not such service is performed by means of coin-operated equipment or by any other means, and whether or not any tangible personal property is transferred in conjunction with such service;

(H) The sale of or charges for copying, photocopying, reproducing, duplicating, addressing, and mailing services and for public stenographic services;

(I) The rental of textiles to commercial users, the essential part of which rental includes recurring service of laundering or cleaning thereof;

(J) The sale of or charges for the service of real property maintenance and landscaping;

(i) For the purposes of this subparagraph, the term "real property maintenance" means any activity that keeps the land or the premises of a building clean, orderly, and functional, including the performance of minor adjustments, maintenance, or repairs, which include: floor, wall, and ceiling cleaning; pest control; window cleaning; servicing inground and in building swimming pools; exterior building cleaning; parking lot, garage, and recreation area maintenance; exterior and interior trash removal; restroom cleaning and stocking; lighting maintenance; chimney and duct cleaning; or ground maintenance; but does not include; painting; wallpapering, or other services performed as part of construction or major repairs; or services performed under an employee-employer relationship; and

(ii) For the purposes of this subparagraph, the term "landscaping" means the activity of arranging or modifying areas of land and natural scenery for an improved or aesthetic effect; the addition, removal, or arrangement of natural forms, features, and plantings; the addition, removal, or modification of retaining walls, ponds, sprinkler systems, or other landscape construction services; and other services provided by landscape designers or landscape architects such as consultation, research; preparation of general or specific design or detail plans, studies; specifications or supervision, or any other professional services or functions associated with landscaping;

(K) The sale of or charges for data processing service and information service;

(i) For the purposes of this subparagraph, the term "data processing service" means the processing of information for the compilation and production of records of transactions; the maintenance, input, and retrieval of



information; the provision of direct access to computer equipment to process, examine, or acquire information stored in or accessible to the computer equipment; the specification of computer hardware configurations; the evaluation of technical processing characteristics, computer programming or software, provided in conjunction with and to support the sale, lease, operation, or application of computer equipment or systems; work processing; payroll and business accounting, computerized data and information storage and manipulation; the input of inventory control data for a company; the maintenance of records of employee work time; filing payroll tax returns; the preparation of W-2 forms; the computation and preparation of payroll checks; and any system or application programming or software. The term “data processing services” does not include a service provided by a member of an affiliated group of corporations to other corporate members of the group. Data processing services shall be exempt from use tax if the service is rendered by a member of the affiliated group of corporations, has not been purchased with a certificate of resale or exemption to the corporation providing the service, is rendered for the purpose of expense allocation; and is not for the profit of the corporation providing the service. For the purposes of this sub-subparagraph, the term “affiliated group” shall have the same meaning as defined in 26 U.S.C. § 1504(a); and

(ii) For the purposes of this subparagraph, the term “information service” means the furnishing of general or specialized news or current information, including financial information, by printed, mimeographed, electronic, or electrical transmission, or by wire, cable, radio waves, microwaves, satellite, fiber optics, or any other method in existence or which may be devised; electronic data retrieval or research, including newsletters, real estate listings, or financial, investment, circulation, credit, stock market, or bond rating reports; mailing lists; abstracts of title; news clipping services; wire services; scouting reports; surveys; bad check lists; and broadcast rating services; but does not include: information sold to a newspaper or a radio or television station licensed by the Federal Communication Commission, if the information is gathered or purchased for direct use in newspapers or radio or television broadcasts; charges to a person by a financial institution for account balance information; or information gathered or compiled on behalf of a particular client, if the information is of a proprietary nature to that client and may not be sold to others by the person who compiled the information, except for a subsequent sale of the information by the client for whom the information was gathered or compiled;

(L) The sale or charge for any newspaper or publication;

(M)(i) The sale of or charges for stationary two-way radio services, telegraph services, teletypewriter services, and teleconferencing services. The sale or charges described in this sub-subparagraph shall not be considered sales of private communication services as defined in § 47-2001(n)(1)(G)(iv);

(ii) The sale of or charges for “900”, “976”, “915”, and other “900”-type telecommunication services;

(iii) The sale of or charges for telephone answering services, including automated services and services provided by human operators; and

(iv) The sale of or charges for services enumerated in sub-subparagraphs (i) through (iii) of this subparagraph shall not include sales of or charges for services that are subject to tax under § 47-2501 or Chapter 39 of this title;

(N) The sale of or charges for the service of laundering, dry cleaning, or pressing of any kind of tangible personal property, except when the service is performed by means of self-service, coin-operated equipment, and the rental of textiles to commercial users when the essential part of the rental includes the recurring service of laundering or cleaning thereof;

(O) The sale of or charge for any delivery in the District for which a separate charge is made, except merchandise delivered for resale for which a District of Columbia certificate of resale has been issued or the delivery of any newspapers;

(P) The sale of or charge for the service of procuring, offering, or attempting to procure in the District job seekers for employers or employment for job seekers, including employment advice, counseling, testing, resume preparation and any other related service; or

(Q) The sale of or charge for the service of placing a job seeker with an employer in the District.

(2) The terms “retail sale,” “sale at retail,” and “sold at retail” shall not include the following:

(A) Sales of data processing, information, or transportation and communication services other than sales of data processing services, information services, or any service enumerated in paragraph (1)(M) of this subsection, or the sale of or charge for any delivery in the District for which a separate charge is made;

(B) Professional, insurance, or personal service transactions which involve sales as inconsequential elements for which no separate charges are made, except as otherwise provided in subsection (a)(1) of this section;

(C) Sales of tangible personal property which property was purchased or acquired by a nonresident prior to coming into the District and establishing or maintaining a temporary or permanent residence in the District. As used in this subsection, the word “residence” means a place in which to reside and does not mean “domicile”;

(D) Sales of tangible personal property which property was purchased or acquired by a nonresident person prior to coming into the District and establishing or maintaining a business in the District;

(E) The use or storage within the District of tangible personal property owned and held by a common carrier or sleeping car company for use principally without the District in the course of interstate commerce, or commerce between the District and a state, in or upon, or as part of, any train, aircraft, or boat; or

(F) Sales of Internet access service.

(i) For the purposes of this subparagraph, the term “Internet access service” means a service that enables users to access content, information, electronic mail, or other services offered over the Internet and may also include access to proprietary content, information, and other services as part of a package of Internet access services offered to consumers.



(ii) "Internet access service" shall not include the sale of or charges for data processing and information services as defined in paragraph (1)(K)(i) and (ii) of this subsection that do not enable users to access content, information, electronic mail, or other services offered over the Internet.

(iii) "Internet access service" shall not include telecommunication services as defined in paragraph (1)(M) of this subsection or Chapter 39 of this title.

(b) "Purchase" and "purchased" mean and include:

(1) Any transfer, either conditionally or absolutely, of title or possession or both of the tangible personal property sold at retail;

(2) Any acquisition of a license or other authority to use, store, or consume, the tangible personal property sold at retail; and

(3) Any sale of services sold at retail.

(c) "Purchaser" means any person who shall have purchased tangible personal property or services sold at retail.

(d) "In the District" and "within the District" mean within the exterior limits of the District of Columbia and include all territory within such limits owned by the United States of America.

(e) "Store" and "storage" mean any keeping or the retention of possession in the District for any purpose, other than for the purpose of subsequently transporting the property outside the District for use solely outside the District, of tangible personal property purchased at retail sale.

(f) "Use" means the exercise by any person within the District of any right or power over tangible personal property and services sold at retail, whether purchased within or without the District by a purchaser from a vendor.

(g) "Vendor" includes every person or retailer engaging in business in the District and making sales at retail as defined herein, whether for immediate or future delivery of the tangible personal property or performance of the services. When in the opinion of the Mayor it is necessary for the efficient administration of this chapter to regard any salesman, representative, peddler, or canvasser, as the agent of the dealer, distributor, supervisor, or employer, under whom he operates or from whom he obtains the tangible personal property sold or furnishes services, the Mayor may, in his discretion, treat and regard such agent as the vendor jointly responsible with his principal, employer, or supervisor, for the assessment and payment or collection of the tax imposed by this chapter.

(h) "Engaging in business in the District" includes the selling, delivering, or furnishing in the District, or any activity in the District in connection with the selling, delivering, or furnishing in the District, of tangible personal property or services sold at retail as defined herein. This term shall include, but shall not be limited to, the following acts or methods of transacting business:

(1) The maintaining, occupying or using, permanently or temporarily, directly or indirectly, or through a subsidiary or agent, by whatever name called, of any office, place of distribution, sales or sample room or place, warehouse or storage place, or other place of business; and

(2) The having of any representative, agent, salesman, canvasser, or solicitor operating in the District for the purpose of making sales at retail as defined herein, or the taking of orders for such sales.



(i) "Retailer" includes every person engaged in the business of making sales at retail.

(j) The definitions of "business," "food or drink," "gross receipts," "person," "purchaser's certificate," "retail establishment," "return," "sale" and "selling," "sales price," "semipublic institution," "tangible personal property," "tax," "tax year," "taxpayer," "Mayor," and "District," as defined in Chapter 20 of this title, are hereby incorporated in and made applicable to this chapter.

(k) The foregoing definitions shall be applicable whenever the words defined are used in this chapter unless otherwise required by the context.

(May 27, 1949, 63 Stat. 124, ch. 146, title II, §§ 201-211; May 18, 1954, 68 Stat. 118, ch. 218, title XIII, § 1306; Mar. 31, 1956, 70 Stat. 81, ch. 154, § 205; Aug. 2, 1968, 82 Stat. 615, Pub. L. 90-450, title III, § 306; Oct. 31, 1969, 83 Stat. 171, Pub. L. 91-106, title I, §§ 108, 109; Jan. 5, 1971, 84 Stat. 1932, Pub. L. 91-650, title II, § 201(c)(1); Oct. 21, 1975, D.C. Law 1-23, title III, § 302(1), (3)-(5), 22 DCR 2101-2103; June 15, 1976, D.C. Law 1-70, title IV, §§ 404, 405, 23 DCR 540; July 24, 1982, D.C. Law 4-131, §§ 217, 218, 223, 29 DCR 2418; July 26, 1989, D.C. Law 8-17, § 5(a), 36 DCR 4160; May 4, 1990, D.C. Law 8-119, § 4, 37 DCR 1738; Sept. 30, 1993, D.C. Law 10-25, § 112(a)-(c), 40 DCR 5489; Feb. 5, 1994, D.C. Law 10-68, §§ 47, 50, 40 DCR 6311; Apr. 30, 1994, D.C. Law 10-115, § 204(a), 41 DCR 1216; June 14, 1994, D.C. Law 10-128, § 105(a), 41 DCR 2096; Mar. 21, 1995, D.C. Law 10-242, § 14(b), 42 DCR 86; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 30, 1998, D.C. Law 12-100, § 2(d), 45 DCR 1533; Oct. 20, 1999, D.C. Law 13-38, § 2702(l), 46 DCR 6373; May 23, 2000, D.C. Law 13-118, § 2(a), 47 DCR 2002; Sept. 23, 2009, D.C. Law 18-48, § 2(b), 56 DCR 5482.)

**Prior Codifications.** — 1981 Ed., § 47-2201.

1973 Ed., § 47-2701.

**Effect of amendments.** — D.C. Law 13-38 added subsec. (a)(2)(F).

D.C. Law 13-118 in subsec. (e) substituted "any purpose other than for the purpose of subsequently transporting the property outside the District for use solely outside the District," for "any purpose".

D.C. Law 18-48, in subsec. (a)(1)(B), deleted "when made to any purchaser for purposes other than resale or for use in manufacturing, assembling, processing, or refining" following "steam".

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 112(a)-(c) of Omnibus Budget Support Temporary Act of 1993 (D.C. Law 10-11, August 6, 1993, law notification 40 DCR 6213).

For temporary (225 day) amendment of section, see § 3 of Sales and Use Tax on Newspapers Temporary Amendment Act of 1993 (D.C. Law 10-32, October 15, 1993, law notification 40 DCR 7475).

For temporary (225 day) prohibition of increase of certain taxes, see § 2 of Economic Recovery Conformity Temporary Act of 1996

(D.C. Law 11-216, April 9, 1998, law notification 44 DCR 2574).

Section 10 of D.C. Law 19-53 amended subsec. (j) to read as follows:

"(j) The definitions of 'additional charges,' 'business,' 'District,' 'food or drink,' 'gross receipts,' 'Mayor,' 'net charges,' 'person,' 'purchaser's certificate,' 'retail establishment,' 'return,' 'room remarketer,' 'sale' and 'selling,' 'sales price,' 'semipublic institution,' 'tangible personal property,' 'tax,' 'tax year,' 'taxpayer,' and 'transient' as defined in Chapter 20 of this title, are hereby incorporated in and made applicable to this chapter."

Section 15(b) of D.C. Law 19-53 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary prohibition, on an emergency basis, of the increase in the individual income tax, the sales and use tax, and real property tax rates contingent on the enactment of an act of Congress which would reduce the percentage of federal income tax applicable solely to residents of D.C. under the Internal Revenue Code of 1986, see § 2 of the Economic Recovery Conformity Emergency Act of 1996 (D.C. Act 11-377, August 28, 1996, 43 DCR 4797).

For temporary (90-day) amendment of section, see § 2702(l) of the Service Improvement and Fiscal Year 2000 Budget Support Emergency Act of 1999 (D.C. Act 13-110, July 28, 1999, 46 DCR 6320).

For temporary (90 day) amendment of section, see § 3 of Simplified Sales and Use Tax District of Columbia Participation Emergency Act of 2001 (D.C. Act 14-168, November 19, 2001, 48 DCR 11026).

For temporary (90 day) amendment of section, see § 10 of Revised Fiscal Year 2012 Budget Support Technical Clarification Emergency Amendment Act of 2011 (D.C. Act 19-157, October 4, 2011, 58 DCR 8688).

For temporary (90 day) amendment of section, see § 7114 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 7114 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

**Legislative history of Law 1-23.** — Law 1-23, the “Revenue Act of 1975,” was introduced in Council and assigned Bill No. 1-47, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first, amended first, and second readings, and reconsideration of second reading, on April 15, 1975, June 1, 1975, June 24, 1975 and July 11, 1975, respectively. Signed by the Mayor on July 23, 1975, it was assigned Act No. 1-34 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 1-70.** — Law 1-70, the “Revenue Act of 1976,” was introduced in Council and assigned Bill No. 1-229, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings and reconsiderations of final reading on February 20, 1976, March 11, 1976 and April 6, 1976, respectively. Signed by the Mayor on April 20, 1976, it was assigned Act No. 1-106 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 4-131.** — Law 4-131, the “District of Columbia Tax Enforcement Act of 1982,” was introduced in Council and assigned Bill No. 4-257, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 27, 1982, and May 11, 1982, respectively. Signed by the Mayor on June 1, 1982, it was assigned Act No. 4-196 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 8-17.** — Law 8-17, the “Revenue Amendment Act of 1989,” was introduced in Council and assigned Bill No. 8-224, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 2, 1989

and May 16, 1989, respectively. Signed by the Mayor on May 26, 1989, it was assigned Act No. 8-34 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 8-119.** — Law 8-119, the “Tax Amendment Act of 1990,” was introduced in Council and assigned Bill No. 8-371, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on January 30, 1990, and February 13, 1990, respectively. Approved without the signature of the Mayor on March 6, 1990, it was assigned Act No. 8-173 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 10-25.** — Law 10-25, the “Omnibus Budget Support Act of 1993,” was introduced in Council and assigned Bill No. 10-165, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 1, 1993, and June 29, 1993, respectively. Signed by the Mayor on July 16, 1993, it was assigned Act No. 10-57 and transmitted to both Houses of Congress for its review. D.C. Law 10-25 became effective on September 30, 1993.

**Legislative history of Law 10-68.** — Law 10-68, the “Technical Amendments Act of 1993,” was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

**Legislative history of Law 10-115.** — Law 10-115, the “Financial Administration Revision and Clarification Act of 1994,” was introduced in Council and assigned Bill No. 10-439, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on January 4, 1994, and February 1, 1994, respectively. Signed by the Mayor on February 25, 1994, it was assigned Act No. 10-205 and transmitted to both Houses of Congress for its review. D.C. Law 10-115 became effective on April 30, 1994.

**Legislative history of Law 10-128.** — Law 10-128, the “Omnibus Budget Support Act of 1994,” was introduced in Council and assigned Bill No. 10-575, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 22, 1994, and April 12, 1994, respectively. Signed by the Mayor on April 14, 1994, it was assigned Act No. 10-225 and transmitted to both Houses of Congress for its review. D.C. Law 10-128 became effective on June 14, 1994.

**Legislative history of Law 10-242.** — Law 10-242, the “Clean Air Compliance Fee Act of 1994,” was introduced in Council and assigned



Bill No. 10-610, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 1, 1994, and December 6, 1994, respectively. Signed by the Mayor on December 28, 1994, it was assigned Act No. 10-387 and transmitted to both Houses of Congress for its review. D.C. Law 10-242 became effective on March 21, 1995.

**Legislative history of Law 12-100.** — Law 12-100, the “Commercial Mobile Telecommunication Service Tax Clarification Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-425, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 4, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 27, 1998, it was assigned Act No. 12-276 and transmitted to both Houses of Congress for its review. D.C. Law 12-100 became effective on April 30, 1998.

**Legislative history of Law 13-38.** — Law 13-38, the “Service Improvement and Fiscal Year 2000 Budget Support Act of 1999,” was introduced in Council and assigned Bill No. 13-161, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 11, 1999, and June 22, 1999, respectively. Signed by the Mayor on July 8, 1999, it was assigned Act No. 13-111 and transmitted to both Houses of Congress for its review. D.C. Law 13-38 became effective on October 20, 1999.

**Legislative history of Law 13-118.** — Law 13-118, the “Compensating-Use Tax Act of 2000,” was introduced in Council and assigned Bill No. 13-363, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on January 4, 2000, and February 1, 2000, respectively. Signed by the Mayor on February 18, 2000, it was assigned Act No. 13-271 and transmitted to both Houses of Congress for its review. D.C. Law 13-118 became effective on May 23, 2000.

**Legislative history of Law 18-48.** — For Law 18-48, see notes following § 47-2001.

**Editor’s notes.** — Section 4(b) of D.C. Law 12-100 provided that returns or payments due from wireless telecommunication companies for the period beginning May 1, 1997, through April 30, 1998, not previously filed or paid shall be due by the 45th day after April 30, 1998.

Section 4(c) of D.C. Law 12-100 provided that beginning in FY 1999, the amount of tax imposed by the act shall not be calculated as gross revenue to which the tax is then applied.

Repeal of D.C. Law 10-242 inapplicable to this section: Section 11702(b) of title XI of Pub. L. 105-33, 111 Stat. 781, the National Capital Revitalization and Self-Government Improvement Act of 1997, provided that § 11702(a), which repealed the Clean Air Compliance Fee Act of 1994, D.C. Law 10-242, shall not apply to § 14 of Law 10-242.

Section 3 of D.C. Law 18-48 provided that this act shall apply as of January 1, 2009.

## CASE NOTES

### ANALYSIS

In general.

Place of transfer or use.

Property acquired for purpose of retail.

Public stenographic services.

### In general.

To effect Congressional purpose, District of Columbia compensating-use tax must be construed in view of situation as a whole, in its substance, and not restricted solely to form. D.C. Code 1951, § 47-2701 et seq. *District of Columbia v. Seven-Up Washington*, 214 F.2d 197, 1954 U.S. App. LEXIS 4658 (C.A.D.C. 1954).

The statutory exclusions in § 47-2001(n)(2)(B) and subsection (a)(2)(B) of this section apply to professional and creative services of writers and there is no justification for the imposition of tax on the services of petitioner’s free-lance authors. *Washington Magazine, Inc. v. District of Columbia*, 115 WLR 2085 (Super. Ct. 1987).

### Place of transfer or use.

Determination that Maryland merchandis-

ing firm did not exercise such right or power over its catalogs within District of Columbia such as to constitute taxable “use,” under use tax of District, was not clearly erroneous where catalogs were packaged and addressed for mailing in Georgia, put on common carrier, delivered to main post office in District of Columbia unloaded at post office by employees of common carrier, and then placed in United States’ mail by postal employees. D.C. Code §§ 47-2701 et seq., 47-2702. *District of Columbia v. W. Bell & Co.*, 420 A.2d 1208, 1980 D.C. App. LEXIS 371 (1980).

Any “theoretical ownership” of merchandise catalogs by merchandiser and ability of Maryland merchandiser to recall catalogs after they were delivered to common carrier for delivery to post office and mailing to customers within District of Columbia was insufficient control of catalogs to subject catalogs to a use tax of District. D.C. Code §§ 47-2701 et seq., 47-2701, subd. 6, 47-2702. *District of Columbia v. W. Bell & Co.*, 420 A.2d 1208, 1980 D.C. App. LEXIS 371 (1980).

Deposit of catalogs in mails within District of Columbia, of which catalogs conceivably Mary-



land merchandiser would have right of recall as sender, did not convert post office into merchandiser's agent for purpose of subjecting catalogs to District's use tax. D.C. Code §§ 47-2701 et seq., 47-2701, subd. 6, 47-2702. *District of Columbia v. W. Bell & Co.*, 420 A.2d 1208, 1980 D.C. App. LEXIS 371 (1980).

**Property acquired for purpose of retail.**

Under District of Columbia statute excluding from use tax property which is acquired for purpose of resale, property is not excluded simply because it is resold, but it is excluded only when it is purchased specifically for the purpose of resale. D.C. Code 1951, §§ 47-2701.1(a), 47-2702. *District of Columbia v. Seven-Up Washington*, 214 F.2d 197, 1954 U.S. App. LEXIS 4658 (C.A.D.C. 1954).

Where bottling companies bought bottles and cases and sold them, filled with beverages, at prices smaller than the cost of the bottles and cases, in expectation that bottles and cases would be returned for refund, the bottles and cases were not "acquired for purpose of resale" within meaning of statute excluding from use tax property purchased for resale. D.C. Code 1951, § 47-2701.1(a). *District of Columbia v. Seven-Up Washington*, 214 F.2d 197, 1954 U.S. App. LEXIS 4658 (C.A.D.C. 1954).

Cartons, which bottling companies delivered to customers with bottled drinks, upon which no credit or refund for return was allowed, and which were not drawn back into more or less constant use by companies, were property "acquired for purpose of resale" within meaning, as construed in Regulations, of District of Columbia statute which exempts from use tax property acquired for purpose of resale. D.C. Code 1951, § 47-2701.1(a). *District of Columbia v. Seven-Up Washington*, 214 F.2d 197, 1954 U.S. App. LEXIS 4658 (C.A.D.C. 1954).

**Public stenographic services.**

Court reporting services are not public stenographic services and are exempt from sales and use taxes pursuant to § 47-2001(n)(2)(B) and subsection (a)(2)(B) of this section. *Acme Reporting Co. v. District of Columbia*, 113 WLR 1533 (Super. Ct. 1985).

Term "public stenographic services," used in sales and use tax code provisions subjecting such services to taxation, did not include court reporting services. D.C. Code 1981, §§ 47-2001(n)(1)(H), 47-2201(a)(1)(G). *District of Columbia v. Acme Reporting Co.*, 530 A.2d 708, 1987 D.C. App. LEXIS 417 (1987).

**§ 47-2202. Imposition of tax.**

There is hereby imposed and there shall be paid by every vendor engaging in business in the District and by every purchaser a tax on the use, storage, or consumption of any tangible personal property and service sold or purchased at retail sale. The rate of tax imposed by this section shall be 5.75%, except for the period beginning October 1, 2009, and ending September 30, 2012, the rate shall be 6%, of the sales price of such tangible personal property and services, except that:

(1) The rate of tax shall be 12% of the gross receipt from the sale of or charges for the service of parking or storing of motor vehicles or trailers, except the service of parking or storing of motor vehicles or trailers on a parking lot owned or operated by the Washington Metropolitan Area Transit Authority and located adjacent to a Washington Metropolitan Area Transit Authority passenger stop or station;

(2)(A) The rate of tax shall be 10.05% of the gross receipts from the sale of or charges for any room or rooms, lodgings, or accommodations, furnished to a transient by any hotel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients;

(B) If the occupancy of a room or rooms, lodgings, or accommodations is reserved, booked, or otherwise arranged for by a room remarketer, the tax imposed by this paragraph shall be determined based on the net charges and additional charges received by the room remarketer.

(3) The rate of tax shall be 9% of the gross receipts from the sale of or charges for:

(A) Food or drink prepared for immediate consumption as defined in § 47-2001(g-1);

(B) Spirituous or malt liquors, beer and wine sold for consumption on the premises where sold; and

(C) Rental or leasing of rental vehicles and utility trailers as defined in § 50-1505.01;

(3A) The rate of tax shall be 9% of the gross receipts of the sales of or charges for spirituous or malt liquors, beers, and wine sold for consumption off the premises where sold; and

(4) [Repealed].

(May 27, 1949, 63 Stat. 126, ch. 146, title II, § 212; May 18, 1954, 68 Stat. 118, ch. 218, title XIII, § 1307; Mar. 2, 1962, 76 Stat. 10, Pub. L. 87-408, § 102; Aug. 2, 1968, 82 Stat. 615, Pub. L. 90-450, title III, § 307; Oct. 31, 1969, 83 Stat. 172, Pub. L. 91-106, title I, § 110; Jan. 5, 1971, 84 Stat. 1932, Pub. L. 91-650, title II, § 201(c)(2); Aug. 29, 1972, 86 Stat. 643, Pub. L. 92-410, title III, § 301(b); Oct. 21, 1975, D.C. Law 1-23, title III, § 302(2), 22 DCR 2101; June 15, 1976, D.C. Law 1-70, title IV, § 409, 23 DCR 544; Sept. 13, 1980, D.C. Law 3-92, § 202, 27 DCR 3390; Sept. 26, 1984, D.C. Law 5-113, § 201(e), (f), 31 DCR 3974; July 26, 1989, D.C. Law 8-17, § 5(b), 36 DCR 4160; Sept. 30, 1993, D.C. Law 10-25, § 112(d), 40 DCR 5489; Apr. 30, 1994, D.C. Law 10-115, § 204(b), 41 DCR 1216; June 14, 1994, D.C. Law 10-128, § 105(b), 41 DCR 2096; Sept. 28, 1994, D.C. Law 10-188, § 303(a), 41 DCR 5333; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 12, 1998, D.C. Law 12-142, § 3(f), 45 DCR 4826; June 5, 2003, D.C. Law 14-307, § 902(b), 49 DCR 11664; Mar. 3, 2010, D.C. Law 18-111, § 7241(g), 57 DCR 181; Apr. 8, 2011, D.C. Law 18-364, § 2(d), 58 DCR 976; Sept. 14, 2011, D.C. Law 19-21, § 7002(b)(1), 58 DCR 6226.)

**Cross references.** — Alcoholic beverage control, rules and regulations, see § 25-211.

National capital region transportation, revenues deposited in general fund and allocated to metrorail/metrobus account, see § 9-1111.15.

National capital revitalization corporation, determination, publication, collection and deposit of tax increment revenues, see § 2-1219.22.

National capital revitalization corporation, "sales and use tax increment revenues" defined, see § 2-1219.01.

Tax rates, records and surplus funds, authority of Council to change certain tax rates, see § 47-504.

**Section references.** — This section is referred to in §§ 47-2202.01 and 47-2202.02.

**Prior Codifications.** — 1981 Ed., § 47-2202.

1973 Ed., § 47-2702.

**Effect of amendments.** — D.C. Law 14-307, in par. (3A), substituted "9%" for "8%".

D.C. Law 18-111 substituted "5.75%, except for the period beginning October 1, 2009, and ending September 30, 2012, the rate shall be

6%," for "5.75%, except for the period beginning June 1, 1994, and ending September 30, 1994, the rate shall be 7%,".

D.C. Law 18-364 designated the existing text of par. (2) as par. (2)(A); and added par. (2)(B).

D.C. Law 19-21, in par. (2)(B), substituted "net charges and additional charges received by the room remarketer" for "net sale or net charges received from the transient by the room remarketer".

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 112(d) of Omnibus Budget Support Temporary Act of 1993 (D.C. Law 10-11, August 6, 1993, law notification 40 DCR 6213).

Section 11 of D.C. Law 19-53, in par. (3A), substituted "Effective October 1, 2011, the rate of the tax shall be 10%" for "The rate of the tax shall be 9%".

Section 15(b) of D.C. Law 19-53 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see §§ 902(b) and 903 of Fiscal Year 2003 Budget Support



Amendment Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) amendment of section, see §§ 902(b) and 903 of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of section, see §§ 902(b) and 903 of Fiscal Year 2003 Budget Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

For temporary (90 day) amendment of section, see § 7111(f) of Fiscal Year 2010 Budget Support Emergency Act of 2009 (D.C. Act 18-187, August 26, 2009, 56 DCR 7374).

For temporary (90 day) amendment of section, see § 7241(g) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 7241(g) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) amendment of section, see § 7002(b)(1) of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

For temporary (90 day) amendment of section, see § 11 of Revised Fiscal Year 2012 Budget Support Technical Clarification Emergency Amendment Act of 2011 (D.C. Act 19-157, October 4, 2011, 58 DCR 8688).

**Legislative history of Law 1-23.** — For legislative history of D.C. Law 1-23, see Historical and Statutory Notes following § 47-2201.

**Legislative history of Law 1-70.** — For legislative history of D.C. Law 1-70, see Historical and Statutory Notes following § 47-2201.

**Legislative history of Law 3-92.** — Law 3-92, the “District of Columbia Revenue Act of 1980,” was introduced in Council and assigned Bill No. 3-285, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 17, 1980 and July 1, 1980, respectively. Signed by the Mayor on July 9, 1980, it was assigned Act No. 3-214 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 5-113.** — Law 5-113, the “District of Columbia Revenue Act of 1984,” was introduced in Council and assigned Bill No. 5-370, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June

26, 1984 and July 10, 1984, respectively. Signed by the Mayor on July 13, 1984, it was assigned Act No. 5-164 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 8-17.** — For legislative history of D.C. Law 8-17, see Historical and Statutory Notes following § 47-2201.

**Legislative history of Law 10-25.** — For legislative history of D.C. Law 10-25, see Historical and Statutory Notes following § 47-2201.

**Legislative history of Law 10-115.** — For legislative history of D.C. Law 10-115, see Historical and Statutory Notes following § 47-2201.

**Legislative history of Law 10-128.** — For legislative history of D.C. Law 10-128, see Historical and Statutory Notes following § 47-2201.

**Legislative history of Law 10-188.** — For legislative history of D.C. Law 10-188, see Historical and Statutory Notes following § 47-2202.01.

**Legislative history of Law 12-142.** — For legislative history of D.C. Law 12-142, see Historical and Statutory Notes following § 47-2002.

**Legislative history of Law 14-307.** — For Law 14-307, see notes following § 47-903.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-305.02.

**Legislative history of Law 18-364.** — For history of Law 18-364, see notes under § 47-2001.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 47-305.02.

**Effective date.** — Section 202 of D.C. Law 5-113 provided that § 201 shall take effect October 1, 1984.

**Editor’s notes.** — Expiration of §§ 301, 302 and 303 of Law 10-188: See Historical and Statutory Notes following § 47-2202.01.

Mayor authorized to issue rules: See second paragraph of note to § 47-2601.

Audit of accounts and operation of Authority: See Historical and Statutory Notes following § 47-2202.01.

Expiration of §§ 301, 302 and 303 of Law 10-188: See Historical and Statutory Notes following § 47-2202.01.

Audit of accounts and operation of Authority: See Historical and Statutory Notes following § 47-2202.01.

Section 903 of D.C. Law 14-307 provided: “Sec. 903. Applicability. Section 902 shall apply as of January 1, 2003.”



## CASE NOTES

## ANALYSIS

Catalogs.  
In general.

**Catalogs.**

Use tax could not be imposed on merchandise catalogs on basis of catalog's "promotional effect" within District of Columbia where any promotional benefit Maryland merchandiser might receive from distribution of its catalogs to District residents by mail, free of charge, was too indeterminate to justify conclusion of merchandiser's constructive ownership of catalogs which were not in merchandiser's physical possession. D.C. Code §§ 47-2701 et seq., 47-2701, subd. 6, 47-2702. *District of Columbia v. W. Bell & Co.*, 420 A.2d 1208, 1980 D.C. App. LEXIS 371 (1980).

Determination that Maryland merchandising firm did not exercise such right or power over its catalogs within District of Columbia such as to constitute taxable "use," under use tax of District, was not clearly erroneous where catalogs were packaged and addressed for mailing in Georgia, put on common carrier, delivered to main post office in District of Columbia unloaded at post office by employees of common carrier, and then placed in United States' mail by postal employees. D.C. Code §§ 47-2701 et seq., 47-2702. *District of Columbia v. W. Bell & Co.*, 420 A.2d 1208, 1980 D.C. App. LEXIS 371 (1980).

Any "theoretical ownership" of merchandise catalogs by merchandiser and ability of Mary-

land merchandiser to recall catalogs after they were delivered to common carrier for delivery to post office and mailing to customers within District of Columbia was insufficient control of catalogs to subject catalogs to a use tax of District. D.C. Code §§ 47-2701 et seq., 47-2701, subd. 6, 47-2702. *District of Columbia v. W. Bell & Co.*, 420 A.2d 1208, 1980 D.C. App. LEXIS 371 (1980).

Deposit of catalogs in mails within District of Columbia, of which catalogs conceivably Maryland merchandiser would have right of recall as sender, did not convert post office into merchandiser's agent for purpose of subjecting catalogs to District's use tax. D.C. Code §§ 47-2701 et seq., 47-2701, subd. 6, 47-2702. *District of Columbia v. W. Bell & Co.*, 420 A.2d 1208, 1980 D.C. App. LEXIS 371 (1980).

**In general.**

Where personal property was purchased by contractor subsequent to passage of District of Columbia Sales Tax Act, fact that construction contracts with reference to which purchases were made had been entered into before passage of the Act did not absolve contractor from payment of the use tax, since it is the purchase or use itself, and not the signing of the contracts ultimately necessitating the purchase, which is the taxable event. D.C. Code 1951 §§ 47-2601 et seq., 47-2701 et seq. *John McShain, Inc. v. District of Columbia*, 205 F.2d 882, 1953 U.S. App. LEXIS 3847 (C.A.D.C. 1953).

## **§ 47-2202.01. Tax on gross receipts for transient lodgings or accommodations; food or drink for immediate consumption; spirits sold for consumption on premises; rental vehicles.**

A tax, separate from, and in addition to, the taxes imposed pursuant to § 47-2202 is imposed on the use, storage, or consumption of certain tangible personal property and services sold or purchased at retail sale in the District. Vendors engaging in the business activities listed in paragraphs (1) and (2) of this section and purchasers of the vendors' tangible personal property and services shall pay the tax at the following rate:

(1)(A) 4.45% of the gross receipts for the sale or charges for any room or rooms, lodgings, or accommodations furnished to a transient by any hotel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients; and

(B) If the occupancy of a room or rooms, lodgings, or accommodations is reserved, booked, or otherwise arranged for by a room remarketer, the tax imposed by this paragraph shall be determined based on the net charges and additional charges by the room remarketer.

(2) 1% of the gross receipts from the sale or charges made for:

(A) Food or drink prepared for immediate consumption, or sold as described in § 47-2001(n)(1)(A);

(B) Spirituous or malt liquors, beers, and wine sold for consumption on the premises where sold; or

(C) Rental or leasing of rental vehicles and utility trailers as defined in § 50-1505.01(8) and (9).

(May 27, 1949, 63 Stat. 124, ch. 146, title II, § 212a, as added Sept. 28, 1994, D.C. Law 10-188, § 303(b), 41 DCR 5333; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 12, 1998, D.C. Law 12-142, § 3(g), 45 DCR 4826; Apr. 8, 2011, D.C. Law 18-364, § 2(e), 58 DCR 976; Sept. 14, 2011, D.C. Law 19-21, § 7002(b)(2), 58 DCR 6226.)

**Cross references.** — Washington Convention Center Authority, audit of accounts and operations, certification of sufficiency of sum of projected revenues, surtax, see § 10-1203.05.

Washington Convention Center Authority, collection and transfer of taxes to Fund, see § 10-1203.07.

Washington Convention Center Authority, “dedicated taxes” defined, see § 10-1202.01.

Washington Convention Center Authority, Marketing Fund established, marketing service contracts, total dollar amount, see § 10-1202.08a.

**Section references.** — This section is referred to in § 47-2202.02.

**Prior Codifications.** — 1981 Ed., § 47-2202.1.

**Effect of amendments.** — D.C. Law 18-364 designated the existing text of par. (1) as par. (1)(A); and added par. (1)(B).

D.C. Law 19-21, in par. (1)(B), substituted “net charges and additional charges received by the room remarketer” for “net sale or net charges received from the transient by the room remarketer”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 7002(b)(2) of Fiscal Year 2012 Budget Support Emergency Act of 2011 (D.C. Act 19-93, June 29, 2011, 58 DCR 5599).

**Legislative history of Law 10-188.** — Law 10-188, the “Washington Convention Center Authority Act of 1994,” was introduced in Council and assigned Bill No. 10-527, which was referred to the Committee on Economic Development and sequentially to the Committee of the Whole. The Bill was adopted on first and second readings on July 5, 1994, and July 19, 1994, respectively. Signed by the Mayor on August 2, 1994, it was assigned Act No. 10-314 and transmitted to both Houses of Congress for its review. D.C. Law 10-188 became effective on September 28, 1994.

**Legislative history of Law 12-142.** — For legislative history of D.C. Law 12-142, see His-

torical and Statutory Notes following § 47-2002.03.

**Legislative history of Law 18-364.** — For history of Law 18-364, see notes under § 47-2001.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 47-305.02.

**Editor’s notes.** — Expiration of §§ 301, 302 and 303 of D.C. Law 10-188: Section 306(a) of D.C. Law 10-188 provided that the act shall expire 2 years after September 28, 1994 if the Board does not submit final financial requirements and a feasibility analysis to the mayor and the Council as provided by § 10-1202.06(h).

Expiration of §§ 301, 302 and 303 of D.C. Law 10-188: Section 306(a) of D.C. Law 10-188 provided that the act shall expire 2 years after September 28, 1994 if the Board does not submit final financial requirements and a feasibility analysis to the mayor and the Council as provided by § 10-1202.06(h).

Expiration of §§ 301, 302 and 303 of D.C. Law 10-188: For temporary amendment of D.C. Law 10-188, § 306(a), see § 2(b) of the Washington Convention Center Authority Act of 1994 Time Extension Emergency Act of 1996 (D.C. Act 11-509).

Audit of accounts and operation of Authority: Section 305(a) of D.C. Law 10-188 provided that “on or before July 1 of each year, the District of Columbia Auditor, pursuant to the Auditor’s duties under § 47-117(b), shall audit the accounts and operation of the Authority and made a specific finding of the sufficiency of the projected revenues from the taxes imposed pursuant to §§ 301, 302, 303, and 304 to meet the projected expenditures and reserve requirements of the Authority for the upcoming fiscal year.”

Section 305(b) of D.C. Law 10-188 provided: “If the audit conducted pursuant to subsection (a) of this section indicates that projected revenues from the taxes imposed pursuant to



§§ 301, 302, 303, and 304 are insufficient to meet projected expenditures and reserve requirements of the Authority for the upcoming fiscal year, the Mayor shall impose a surtax, to become effective on or before October 1 of the upcoming year, on each of those taxes dedicated to the Authority excluding the tax on sales of restaurant meals and alcoholic beverages, in an amount equal to the pro rata share of the difference between (1) the sum of the projected expenditure and reserve requirements and (2) the projected revenues. The pro rata share shall be determined based on the pro rata estimated contribution of each tax to the total estimated tax revenue for the particular year

as contained in the multiyear financial plan submitted pursuant to § 9-807(g) [§ 10-1202.06(g), 2001 Ed.].”

Expiration of §§ 301, 302 and 303 of D.C. Law 10-188: For temporary amendment of D.C. Law 10-188, § 306(a), see § 2(b) of the Washington Convention Center Authority Act of 1994 Time Extension Emergency Act of 1996 (D.C. Act 11-509).

Section 2(l)(1) of D.C. Law 12-142 provided that § 306(a) of D.C. Law 10-188, providing for the expiration of that act, is repealed. Section 2(l)(2) of D.C. Law 12-142 provided that the subsection shall apply as of February 27, 1997.

**§ 47-2202.02. Tax on gross receipts for transient lodgings or accommodations; food or drink for immediate consumption; spirits sold for consumption on premises; rental vehicles — Collection of tax and transfer to Washington Convention and Sports Authority.**

(a) The Mayor shall collect and deposit in a lockbox maintained by the Chief Financial Officer of the District of Columbia the tax imposed pursuant to § 47-2202.01 as agent on behalf of the Washington Convention and Sports Authority (“Authority”) and shall transfer the revenue from the tax upon receipt to the Washington Convention Center Fund established pursuant to § 10-1202.08.

(b) The Mayor may develop and apply a fixed formula to the taxes imposed pursuant to §§ 47-2202 and 47-2202.01 to determine the amount that shall be transferred to the Authority.

(May 27, 1949, 63 Stat. 124, ch. 146, title II, § 212b, as added Sept. 28, 1994, D.C. Law 10-188, § 303(b), 41 DCR 5333; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Mar. 24, 1998, D.C. Law 12-81, § 59(h), 45 DCR 745; Aug. 12, 1998, D.C. Law 12-142, § 3(h), 45 DCR 4826; Mar. 3, 2010, D.C. Law 18-111, § 2082(o)(3)(B), 57 DCR 181.)

**Cross references.** — Washington Convention Center Authority, audit of accounts and operations, certification of sufficiency of sum of projected revenues, surtax, see § 10-1203.05.

Washington Convention Center Authority, collection and transfer of taxes to Fund, see § 10-1203.07.

**Prior Codifications.** — 1981 Ed., § 47-2202.2.

**Effect of amendments.** — D.C. Law 18-111, in the section heading, substituted “Washington Convention and Sports Authority” for “Washington Convention Center Authority”; and, in subsec. (a), substituted “Washington Convention and Sports Authority (‘Authority’)” for “Washington Convention Center Authority” and substituted “Washington Convention Cen-

ter Fund” for “Washington Convention Center Authority Fund”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2082(o)(3)(B) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2082(o)(3)(B) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 10-188.** — For legislative history of D.C. Law 10-188, see Historical and Statutory Notes following § 47-2202.01.

**Legislative history of Law 12-81.** — Law

12-81, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

**Legislative history of Law 12-142.** — For legislative history of D.C. Law 12-142, see Historical and Statutory Notes following § 47-2002.03.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-305.02.

**Editor's notes.** — Expiration of §§ 301, 302 and 303 of D.C. Law 10-188: See Historical and Statutory Notes following § 47-2202.01.

**Audit of accounts and operation of Authority:** See Historical and Statutory Notes following § 47-2202.01.

**Expiration of §§ 301, 302, and 303 of D.C. Law 10-188:** Section 2(l)(1) of D.C. Law 12-142 provided that § 306(a) of D.C. Law 10-188, providing for the expiration of that act, is repealed. Section 2(l)(2) of D.C. Law 12-142 provided that the subsection shall apply as of February 27, 1997.

## § 47-2203. Collection of tax by vendor.

Every vendor engaging in business in the District and making sales at retail shall, for the privilege of making such sales, pay to the Collector the tax imposed by this chapter. At the time of making such sales the vendor shall collect the tax from the purchaser and give to the purchaser a receipt therefor in such form as prescribed by the Mayor. For the purpose of uniformity of tax collection by the vendor engaging in business in the District and for other purposes the provisions of §§ 47-2003, 47-2004, 47-2009, and 47-2010 are hereby incorporated in and made applicable to this chapter.

(May 27, 1949, 63 Stat. 126, ch. 146, title II, § 213; July 24, 1982, D.C. Law 4-131, § 223, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2203.

1973 Ed., § 47-2703.

**Legislative history of Law 4-131.** — For legislative history of D.C. Law 4-131, see His-

torical and Statutory Notes following § 47-2201.

**Editor's notes.** — Office of Collector of Taxes abolished: See Historical and Statutory Notes following § 47-401.

### CASE NOTES

#### In general.

Purchaser must reimburse vendor who fails to charge sales or use tax at time of sale. D.C.

Code 1981, §§ 47-2003, 47-2003(a), 47-2004, 47-2203. *J. Frog, Ltd. v. Fleming*, 598 A.2d 735, 1991 D.C. App. LEXIS 299 (1991).

## § 47-2204. Nonresident vendors.

Every vendor or retailer not engaging in business in the District who makes sales at retail as defined in this chapter, and who upon application to the Mayor has been expressly authorized to pay the tax imposed by this chapter, shall, at the time of making such sales, collect the reimbursement of the tax from the purchaser and give to the purchaser a receipt therefor in such form as prescribed by the Mayor. For the purpose of uniformity of tax collection by the vendor or retailer who has been expressly authorized to pay the tax under the provisions of this section and for other purposes, the provisions of §§ 47-2003, 47-2004, 47-2009, and 47-2010 are hereby incorporated in and made applicable



to this chapter. A permit shall be issued to such vendor or retailer, without charge, to pay the tax and collect reimbursement thereof as provided herein. Such permit may be revoked at any time by the Mayor who shall thereupon give notice thereof to the vendor or retailer.

(May 27, 1949, 63 Stat. 126, ch. 146, title II, § 214; July 24, 1982, D.C. Law 4-131, §§ 219, 223, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2204. legislative history of D.C. Law 4-131, see Historical and Statutory Notes following § 47-2201.

1973 Ed., § 47-2704.

**Legislative history of Law 4-131.** — For

## § 47-2205. Payment of tax by purchaser.

If a purchaser has not reimbursed for the tax such vendors or retailers as are required or authorized to pay the tax, as the case may be, such purchaser shall file a return as hereinafter provided and pay to the Mayor a tax at the rates provided in § 47-2002 on the sales prices of property and services purchased at retail sale.

(May 27, 1949, 63 Stat. 127, ch. 146, title II, § 215; May 18, 1954, 68 Stat. 118, ch. 218, title XIII, § 1308; July 24, 1982, D.C. Law 4-131, § 219, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2205. legislative history of D.C. Law 4-131, see Historical and Statutory Notes following § 47-2201.

1973 Ed., § 47-2705.

**Legislative history of Law 4-131.** — For

## § 47-2206. Exemptions.

The tax imposed by this chapter shall not apply to the following:

(1) Sales upon which taxes are properly collected under Chapter 20 of this title;

(2) Sales exempt from the taxes imposed under Chapter 20 of this title;

(3) Sales upon which the purchaser has paid a retail sales tax or made reimbursement therefor to a vendor or retailer under the laws of any state or territory of the United States; and

(4) Sales of material or equipment used in the construction, and materials used in the repair or alteration, of real property; provided, that the materials are temporarily stored, for no longer than 90 days, in the District for the purpose of subsequently transporting the property outside the District for use solely outside the District.

(May 27, 1949, 63 Stat. 127, ch. 146, title II, § 216; July 24, 1982, D.C. Law 4-131, § 220, 29 DCR 2418; Oct. 1, 1987, D.C. Law 7-25, § 5, 34 DCR 5068; Apr. 30, 1988, D.C. Law 7-104, § 9, 35 DCR 147; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; May 23, 2000, D.C. Law 13-118, § 2(b), 47 DCR 2002; June 25, 2002, D.C. Law 14-157, § 2(c), 49 DCR 4279.)

**Section references.** — This section is referred to in § 47-3802.

**Prior Codifications.** — 1981 Ed., § 47-2206.

1973 Ed., § 47-2706.

**Effect of amendments.** — D.C. Law 13-118 added par. (4).

D.C. Law 14-157 rewrote par. (4).

**Legislative history of Law 4-131.** — For legislative history of D.C. Law 4-131, see Historical and Statutory Notes following § 47-2201.

**Legislative history of Law 7-25.** — Law 7-25, the “Gross Receipt Tax Amendment Act of 1987,” was introduced in Council and assigned Bill No. 7-186, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 30, 1987 and July 14, 1987, respectively. Signed by the Mayor on July 17, 1987, it was assigned

Act No. 7-47 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 7-104.** — Law 7-104, the “Technical Amendments Act of 1987,” was introduced in Council and assigned Bill No. 7-346, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 24, 1987, and December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-124 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 13-118.** — For Law 13-118, see notes following § 47-2201.

**Legislative history of Law 14-157.** — For Law 14-157, see notes following § 47-2001.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 7-25, the “Gross Receipts Tax Amendment Act of 1987,” see Mayor’s Order 94-120, May 16, 1994 (41 DCR 3240).

## § 47-2207. Collection of tax. [Repealed].

Repealed.

(May 27, 1949, 63 Stat. 127, ch. 146, title II, § 217; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(ll)(2), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-2207.

1973 Ed., § 47-2707.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor’s notes.** — Section 410(e) of D.C. Law 13-305 provided: “Section 406(b), (d), (f), (l), (n), (o), (r), (v), (x) through (aa), (cc), (ff), (gg), (ll), (pp), (vv), (ww), (aaa), (ccc), (eee), and (ggg) shall apply as of January 1, 2001.”

## § 47-2208. Surety bonds.

Every vendor or retailer not engaging in business in the District who has been expressly authorized to pay the tax imposed by this chapter and collect reimbursement therefor, and every vendor engaging in business in the District, may, in the discretion of the Council of the District of Columbia, be required to file with the Mayor a bond not exceeding the amount of \$10,000 with such sureties as the Council of the District of Columbia deems necessary, and for such duration not exceeding 5 years as the Council of the District of Columbia deems necessary, conditioned upon the payment of the tax due from any vendor or retailer for any period covered by any return required to be filed under this chapter.

(May 27, 1949, 63 Stat. 127, ch. 146, title II, § 218; July 24, 1982, D.C. Law 4-131, § 221, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2208.

1973 Ed., § 47-2708.

**Legislative history of Law 4-131.** — For

legislative history of D.C. Law 4-131, see Historical and Statutory Notes following § 47-2201.



### **§ 47-2209. Assumption or refund of tax by vendor unlawful.**

The provisions of § 47-2014 are hereby incorporated in and made applicable to this chapter.

(May 27, 1949, 63 Stat. 127, ch. 146, title II, § 219; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2209. 1973 Ed., § 47-2709.

### **§ 47-2210. Returns and payment of tax.**

The provisions of §§ 47-2015, 47-2016, 47-2017, and 47-2018 are hereby incorporated in and made applicable to this chapter. Every vendor, and every vendor or retailer not engaging in business in the District who is expressly authorized to pay the tax, shall file returns and pay the tax in accordance with the provisions of such sections applicable to the filing of returns and the payment of the tax and as shall be prescribed by regulation.

(May 27, 1949, 63 Stat. 127, ch. 146, title II, § 220; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2210. 1973 Ed., § 47-2710.

### **§ 47-2211. Monthly returns; content and form; payment of tax.**

(a) Every purchaser who is required to pay the tax under this chapter shall file a return with the Mayor within 20 days after the end of each calendar month. Such returns shall show the total sales prices of all tangible personal property and services purchased at retail sale upon which the tax imposed has not been paid by the purchaser to vendors or retailers, the amount of tax for which the purchaser is liable, and such other information as the Council of the District of Columbia deems necessary for the computation and collection of the tax.

(b) The Council of the District of Columbia may permit or require the returns of purchasers to be made for other periods and upon such other dates as the Mayor may specify.

(c) The return filed by a purchaser shall include the sales prices of all tangible personal property and services purchased at taxable retail sale during the calendar month or other period for which the return is filed and upon which the tax imposed has not been reimbursed by the purchaser to vendors or retailers.

(d) The form of return shall be prescribed by the Mayor and shall contain such information as he may deem necessary for the proper administration of this chapter. The Mayor may require amended returns to be filed within 20 days after notice and to contain the information specified in the notice.

(e) At the time of filing his return as provided in this section, the purchaser shall pay to the Mayor the amount of tax for which he is liable as shown by such return.

(f) The taxes for the period for which a return is required to be filed under this section shall be due by the taxpayer and payable to the Mayor on the date limited for the filing of the return for such period, without regard to whether a return is filed or whether the return which is filed correctly shows the amount of the total sales prices and taxes due thereon.

(May 27, 1949, 63 Stat. 127, ch. 146, title II, § 221; July 24, 1982, D.C. Law 4-131, § 222, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2211.

1973 Ed., § 47-2711.

**Legislative history of Law 4-131.** — For

legislative history of D.C. Law 4-131, see Historical and Statutory Notes following § 47-2201.

## § 47-2212. Certificate of registration.

The provisions of § 47-2026 are hereby incorporated in and made applicable to this chapter; provided, that vendors and persons who have been issued certificates of registration under Chapter 20 of this title shall not be required to have such certificates under this chapter.

(May 27, 1949, 63 Stat. 128, ch. 146, title II, § 222; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2212.

1973 Ed., § 47-2712.

## § 47-2213. Incorporation and application of certain provisions of Chapter 20.

The provisions of §§ 47-2019 to 47-2021, 47-2023, 47-2024, and 47-2027 are hereby incorporated in and made applicable to this chapter.

(May 27, 1949, 63 Stat. 128, ch. 146, title II, § 223; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(mm)(2), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-2213.

1973 Ed., § 47-2713.

**Effect of amendments.** — D.C. Law 13-305 rewrote the section.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor's notes.** — Section 410(d) of D.C. Law 13-305 provided: "Section 406(a), (c), (j), (m), (p), (q), (s), (w), (bb), (dd), (ee), (hh) through (kk), (mm) through (oo), (qq) through (uu), (yy), (zz), (bbb), (ddd), and (fff) shall apply for all tax years or taxable periods beginning after December 31, 2000."

## § 47-2214. Application of chapter.

The provisions of this chapter regarding the assessment of interest charges for the late filing of returns, late payment of tax, and extensions of time for



filing returns, shall apply only with respect to late returns filed, late payments made, extensions of time granted, and determinations of tax due made (by court action or administratively) after August 1, 1980.

(Sept. 13, 1980, D.C. Law 3-92, § 203, 27 DCR 3390; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2214. legislative history of D.C. Law 3-92, see Historical and Statutory Notes following § 47-2202.

**Legislative history of Law 3-92.** — For

CHAPTER 23. MOTOR FUEL TAX.

*Subchapter I. General Provisions*

Sec.	Sec.
47-2301. Rate; deposit into General Fund.	47-2315. Mayor to issue rules.
47-2301.01. Subchapter subject to the International Fuel Tax Agreement.	47-2316. Procedure for determination, redetermination, assessment, or reassessment; interest penalty; liability for payment.
47-2302. Definitions.	47-2317. Collection; liens. [Repealed].
47-2303. Importer's license; application contents; fee; bond; issuance; revocation.	47-2318. Refund for erroneous or illegal collection.
47-2304. Monthly report of amount of fuel sold.	47-2319. Judicial review.
47-2305. Importers to render invoices except in cases of retail sales.	47-2320. Contraband; declaration; forfeiture; seizure; search; confiscation; sale.
47-2306. Payment of tax.	47-2321. Rules and regulations by Mayor.
47-2307. Records subject to inspection of Assessor and Collector.	47-2322. Severability; savings clauses.
47-2308. Penalty for accepting fuel from importer without an itemized sale statement.	47-2323. Assessments for street paving — Generally.
47-2309. Fuel exported from District of Columbia exempted from taxation.	47-2324. Assessments for street paving — Deposit into General Fund.
47-2310. [Repealed].	47-2325. Continuation of uncompleted projects at end of fiscal year.
47-2311. Tax on fuel sold by United States agency in the District of Columbia.	
47-2312. Prosecutions.	
47-2313. Public hackers not affected.	
47-2314. Personal property tax laws not affected.	

*Subchapter II. International Fuel Tax Agreements*

47-2351. Reciprocal agreements.
47-2352. Registration.
47-2353. Auditing.
47-2354. Fees.

*Subchapter I. General Provisions.*

§ 47-2301. Rate; deposit into General Fund.

(a) The District of Columbia shall levy and collect a tax of \$ .235 per gallon on motor vehicle fuels within the District of Columbia, sold or otherwise disposed of by an importer or by a user, or used for commercial purposes.

(b) The proceeds of the taxes imposed under §§ 47-2302 through 47-2315, and the money collected from fees charged for the registration and titling of motor vehicles, including fees charged for the issuance of permits to operate motor vehicles, shall be deposited in the General Fund of the District of Columbia established under § 47-131.

(c) The Chief Financial Officer of the District of Columbia shall transfer annually to the District of Columbia Highway Trust Fund the proceeds of the taxes imposed under subsection (a) of this section.

(Apr. 23, 1924, 43 Stat. 106, ch. 131, § 1; Aug. 17, 1937, 50 Stat. 676, ch. 690, title III, § 1; June 4, 1952, 66 Stat. 100, ch. 366, § 1; May 18, 1954, 68 Stat. 117, ch. 218, title XI, § 1101; Sept. 30, 1966, 80 Stat. 858, Pub. L. 89-610, title VIII, § 801; Dec. 15, 1971, 85 Stat. 653, Pub. L. 92-196, title III, § 301(a); Oct. 21, 1975, D.C. Law 1-23, title II, § 201, 22 DCR 2096; Jan. 22, 1976, D.C. Law 1-42, § 3(a), 22 DCR 6311; Jan. 22, 1976, D.C. Law 1-42, § 7(c), 22 DCR 6317; Mar. 4, 1981, D.C. Law 3-128, § 11(a), 28 DCR 246; Feb. 19, 1986, D.C. Law 6-80, § 2, 32 DCR 7268; July 26, 1989, D.C. Law 8-17, § 6(a), 36 DCR 4160;



Sept. 10, 1992, D.C. Law 9-145, § 108, 39 DCR 4895; June 14, 1994, D.C. Law 10-128, § 108, 41 DCR 2096; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Mar. 3, 2010, D.C. Law 18-111, § 7241(h), 57 DCR 181; Apr. 8, 2011, D.C. Law 18-370, § 625(c), 58 DCR 1008.)

**Cross references.** — Building restrictions and regulations, fire safety, fees from hauling permits deposited in highway fund, see § 6-703.01.

Motor vehicles and traffic, biennial inspection fund, see § 50-1102.

National capital region transportation, revenues deposited in general fund and allocated to metrorail/metrobus account, see § 9-1111.15.

Regulation of parking, budget and appropriations, use of amounts from highway fund in annual budget, see § 50-2608.

Regulation of parking, fees deposited in General Fund, see § 50-2607.

Taxation and fiscal affairs, General Fund and special accounts established, see § 47-131.

Tax rates, records and surplus funds, authority of Council to change certain tax rates, see § 47-504.

**Section references.** — This section is referred to in §§ 47-2302, 47-2303, 47-2312, and 47-2314.

**Prior Codifications.** — 1981 Ed., § 47-2301.

1973 Ed., § 47-1901.

**Effect of amendments.** — D.C. Law 18-111, in subsec. (a), substituted “\$.235 per gallon” for “20 cents per gallon, except for the period beginning June 1, 1994, and ending September 30, 1994, a tax of 22.5 cents per gallon.”

D.C. Law 18-370, in subsec. (b), substituted “§§ 47-2302 through 47-2315” for “§§ 47-2301 through 47-2315”; and added subsec. (c).

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2 of Motor Vehicle Fuel Tax Act Amendment Temporary Act of 1985 (D.C. Law 6-25, September 5, 1985, law notification 32 DCR 5320).

For temporary (225 day) amendment of section, see § 108 of Omnibus Budget Support Temporary Act of 1992 (D.C. Law 9-134, July 23, 1992, law notification 39 DCR ).

Temporary Enactment Section 2 of D.C. Law 16-44 enacted provisions to read as follows:

“Sec. 2. Fuel cost reduction plan.

“(a) The Mayor shall submit a comprehensive plan to the Council setting forth the most appropriate method or methods that may be executed to address increasing costs associated with motor vehicle fuel and natural gas. The report shall, at a minimum examine the following methods: moving price ceilings; elimination of the gas tax in whole or in part; establishing gasoline sales-tax holidays; gas vouchers; and

examining the city’s buying power to purchase home heating fuel.

“(b) The report shall include:

“(1) Historical fuel (motor vehicle, natural gas, heating oil) cost trends in the District of Columbia from calendar year 2003 through December 2005;

“(2) An assessment concerning the multiple variables that have influenced the cost shifts through the designated period; and

“(3) An assessment concerning possible price gouging, by local motor vehicle fuel retailers, and wholesalers.

“(c) The report shall be due on December 15, 2005.”

Section 4(b) of D.C. Law 16-44 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) enactment, see § 2 of Gasoline Fuel Tax Examination Emergency Act of 2005 (D.C. Act 16-188, October 28,

**Legislative history of Law 1-23.** — Law 1-23, the “Revenue Act of 1975,” was introduced in Council and assigned Bill No. 1-47, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first, amended first, and second readings, and reconsideration of second reading, on April 15, 1975, June 1, 1975, June 24, 1975 and July 11, 1975, respectively. Signed by the Mayor on July 23, 1975, it was assigned Act No. 1-34 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 1-42.** — Law 1-42, the “Revenue Funds Availability Act of 1975,” was introduced in Council and assigned Bill No. 1-161, which was referred to the Committee on the Budget. The Bill was adopted on first and second readings on July 29, 1975 and October 7, 1975, respectively. Signed by the Mayor on October 24, 1975, it was assigned Act No. 1-59 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 3-128.** — Law 3-128, the “Closing of a Portion of Public Alley in Square 5263; the Police Officers, Firefighters, and Teachers Retirement Amendments; the District of Columbia Depository Act of 1977 Amendment; and the District of Columbia Motor Vehicle Fuel and Sales Tax Act and the District of Columbia Sales Tax Act Amendments of 1980 Acts of 1980,” was introduced in Council and assigned Bill No. 3-394, which was referred to the Committee on Transportation and Environmental Affairs. The Bill was ad-

opted on first and second readings on November 25, 1980 and December 9, 1980, respectively. Signed by the Mayor on January 7, 1981, it was assigned Act No. 3-337 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 6-80.** — Law 6-80, the “Flat Fuel Tax Amendment Act of 1985,” was introduced in Council and assigned Bill No. 6-112, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 22, 1985 and November 5, 1985, respectively. Signed by the Mayor on November 26, 1985, it was assigned Act No. 6-105 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 8-17.** — Law 8-17, the “Revenue Amendment Act of 1989,” was introduced in Council and assigned Bill No. 8-224, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 2, 1989 and May 16, 1989, respectively. Signed by the Mayor on May 26, 1989, it was assigned Act No. 8-34 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 9-145.** — Law 9-145, the “Omnibus Budget Support Act of 1992,” was introduced in Council and assigned

Bill No. 9-222, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 12, 1992, and June 2, 1992, respectively. Approved without the signature of the Mayor on June 22, 1992, it was assigned Act No. 9-225 and transmitted to both Houses of Congress for its review. D.C. Law 9-145 became effective on September 10, 1992.

**Legislative history of Law 10-128.** — Law 10-128, the “Omnibus Budget Support Act of 1994,” was introduced in Council and assigned Bill No. 10-575, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 22, 1994, and April 12, 1994, respectively. Signed by the Mayor on April 14, 1994, it was assigned Act No. 10-225 and transmitted to both Houses of Congress for its review. D.C. Law 10-128 became effective on June 14, 1994.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-305.02.

**Legislative history of Law 18-370.** — For history of Law 18-370, see notes under § 47-143.

**Editor’s notes.** — Section 629 of D.C. Law 18-370 provided: “Sec. 629. Applicability. This subtitle shall apply as of October 1, 2011; except, that sections 622 and 623(a)(2) shall apply as of the effective date of this act.”

## § 47-2301.01. Subchapter subject to the International Fuel Tax Agreement.

The Provisions of this subchapter shall be subject to the provisions of the International Fuel Tax Agreement as required by subchapter II of this chapter.

(Sept. 18, 1998, D.C. Law 12-153, § 2(b), 45 DCR 3853.)

**Prior Codifications.** — 1981 Ed., § 47-2301.1.

**Legislative history of Law 12-153.** — Law 12-153, the “International Fuel Tax Agreement Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-422, which was referred to the Committee on Finance and

Revenue. The Bill was adopted on first and second readings on April 7, 1998, and May 5, 1998, respectively. Signed by the Mayor on May 22, 1998, it was assigned Act No. 12-370 and transmitted to both Houses of Congress for its review. D.C. Law 12-153 became effective on September 18, 1998.

## § 47-2302. Definitions.

As used in §§ 47-2301 to 47-2315:

(1) The term “motor vehicle” means all vehicles propelled by internal-combustion engines, electricity, or steam, except traction engines, road rollers, and vehicles propelled only upon rails and tracks.

(2) The term “motor vehicle fuels” means gasoline, diesel fuel, and other volatile and flammable liquid fuels produced or compounded for the purpose of operating or propelling internal combustion engines. It also includes benzol, benzene, naphtha, kerosene, heating oils, all liquified petroleum gases, and all combustible gases and liquids suitable for the generation of power for propul-



sion of motor vehicles when advertised, offered for sale, sold for use, or used, alone, or blended or compounded with other products, for the purpose of operating or propelling internal combustion engines.

(3) The term "importer" means any person who brings into, or who produces, refines, manufactures, or compounds, in the District of Columbia motor vehicle fuel to be used by him or to be sold, kept for sale, bartered, delivered for value, or exchanged for goods.

(4) The term "distributor" means any person other than an importer or user, who purchases motor vehicle fuel for sale to another person for resale.

(5) The term "person" includes individual, partnership, corporation, and association.

(6) The term "Mayor" means the Mayor of the District of Columbia.

(7) The term "highways" means the right-of-way of streets, avenues, and roads, bridges, viaducts, underpasses, drainage structures, guard rails, signs, signals, curbing, and dikes, fills, and retaining walls necessary to support or protect the highway.

(8) The term "construction" means the supervising, inspecting, actual building, and all expenses incidental to the construction of a highway, including the acquisition of the necessary rights-of-way.

(9) The term "reconstruction" means a widening or a rebuilding of the highway or any portion thereof and of sufficient width and strength to care adequately for traffic needs, including all expenses incidental to the reconstruction of a highway and the acquisition of the necessary rights-of-way.

(10) The term "maintenance" means the constant making of needed repairs to preserve the highway.

(11) The term "improvement" means the betterment of a highway by construction, reconstruction, or resurfacing.

(12) The term "user" means anyone other than an importer or distributor who sells, uses, or otherwise disposes of, in the District of Columbia, motor-vehicle fuel upon which the tax imposed by this subchapter has not been paid.

(13) The term "established place of business" means a physical structure owned, leased, or rented by the fleet registrant and used as his or her main office. The physical structure shall be designated by a street number or road location, be opened during normal business hours, and have located within it:

(A) A telephone or telephones publicly listed in the name of the fleet registrant;

(B) A person or persons conducting the fleet registrant's business; and

(C) The operational records of the fleet.

(14) The term "fleet" means one or more apportionable vehicles.

(15) The term "GVWR" means Gross Vehicle Weight Rating, specified by the manufacturer as the loaded weight of a single vehicle.

(16) The term "International Fuel Tax Agreement" or "IFTA" means the interstate agreement on collecting and distributing fuel use taxes paid by motor carriers, developed under the auspices of the National Governors' Association.

(17) The term "jurisdictional base" means the jurisdiction that an apportioned operator lists as his or her established place of business for the purpose of complying with the IFTA.

(18) The term “member jurisdiction” means a jurisdiction that is a member of the International Fuel Tax Association.

(19) The term “motor carrier” means an individual, partnership, or corporation engaged in the transportation of goods or persons.

(20) The term “owner” means any person, firm, or corporation other than the lienholder holding legal title to a vehicle.

(21) The term “properly registered vehicle” means a vehicle which has been registered in full compliance with the laws of all jurisdictions in which it is intended to operate.

(22) The term “reciprocity” means the reciprocal granting of rights and privileges to vehicles properly registered under the IFTA and to vehicles not so registered if such vehicles are subject to separate reciprocity agreements, arrangements, declarations, or understandings.

(23) Repealed.

(Apr. 23, 1924, 43 Stat. 106, ch. 131, § 2; Aug. 17, 1937, 50 Stat. 677, ch. 690, title III, § 2; May 16, 1938, 52 Stat. 358, ch. 223, § 3; Dec. 15, 1971, 85 Stat. 653, Pub. L. 92-196, title III, § 301(b); Mar. 4, 1981, D.C. Law 3-128, § 11(b), (c), 28 DCR 246; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Sept. 18, 1998, D.C. Law 12-153, § 2(c), 45 DCR 3853; Apr. 20, 1999, D.C. Law 12-264, § 52(o), 46 DCR 2118; June 9, 2001, D.C. Law 13-305, § 302(d), 48 DCR 334.)

**Cross references.** — Traffic regulation, rules, fees, fines and penalties, original certificate of title, certain motor vehicles and trailers exempt, see § 50-2201.03.

**Section references.** — This section is referred to in §§ 47-2301, 47-2303, 47-2312, and 47-2314.

**Prior Codifications.** — 1981 Ed., § 47-2302.

1973 Ed., § 47-1902.

**Effect of amendments.** — D.C. Law 13-305 repealed par. (23).

**Legislative history of Law 3-128.** — For legislative history of D.C. Law 3-128, see Historical and Statutory Notes following § 47-2301.

**Legislative history of Law 12-153.** — For

legislative history of D.C. Law 12-153, see Historical and Statutory Notes following § 47-2301.01.

**Legislative history of Law 12-264.** — Law 12-264, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-804, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on January 7, 1999, it was assigned Act No. 12-626 and transmitted to both Houses of Congress for its review. D.C. Law 12-264 became effective on April 20, 1999.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

## § 47-2303. Importer’s license; application contents; fee; bond; issuance; revocation.

(a) No person shall bring into, or produce, refine, manufacture, or compound in the District of Columbia motor vehicle fuel to be used by him or to be sold, bartered, delivered for value, or exchanged for goods, and no person shall engage in the business of importer of motor vehicle fuels in the District of Columbia unless such person is the holder of an unrevoked license authorizing him so to do issued by the Mayor. The application for such license shall contain (1) the name of the applicant, (2) the name under which the applicant intends to transact business and the name and place of business of the local representative, (3) the location of the applicant’s place of business, (4) the date such



business was established, and (5) any other information required under regulations promulgated by the Council of the District of Columbia. In case the applicant is a corporation, the application shall also contain the corporate name, place, and time of incorporation, and the names of the officers and directors, and, if a foreign corporation, the name of its resident general agent, and in case the applicant is a partnership the names and addresses of the several persons constituting the partnership. Such application shall be signed and sworn to by the owner of such business, if owned by an individual; by the partners, if owned by a partnership; or by the president and secretary of the corporation, or by its manager or resident general agent, if owned by a corporation. At the time of applying for such license the applicant shall pay to the Collector of Taxes as an annual license fee the sum of \$5 and shall file with the Mayor of the District of Columbia a bond in the form to be prescribed by the Mayor, in the approximate sum of 3 times the average monthly motor fuel tax due from said such importer during the next preceding 12 months, or estimated to be so due in the next succeeding 12 months, to be executed by a surety company duly licensed to do business under the laws of the District of Columbia, payable to the District of Columbia and conditioned upon the prompt payment of any and all taxes and penalties, levied and imposed in § 47-2301 and this section to the Collector of Taxes of the District of Columbia, and generally upon faithful compliance with the terms of §§ 47-2301 to 47-2315 by such importer; provided, that in no case shall such bond be less than \$5,000 nor more than \$100,000.

(b) Upon filing such application and bond and the payment of the fee, the Assessor shall issue to such applicant a license which shall authorize the applicant to engage in the business of importer of motor vehicle fuels for 1 year unless such license is sooner revoked.

(c) If any importer fails, refuses, or neglects to file the monthly report, or to pay the tax within the time required by this subchapter, the Mayor shall promptly notify the importer and the bonding company by notice sent by registered mail or by certified mail to such importer requiring him to show cause why the license should not be revoked. If in the opinion of the Assessor the importer fails within 10 days after the mailing of such notice to show that failure to file the monthly report or to pay the tax as the case may be within the time required was due to accident or justifiable oversight, the Assessor shall forthwith revoke such license. Any importer whose license has been revoked shall not be issued another license for 12 months following the date of said revocation.

(d) Before any person whose license has been revoked may obtain another license to engage in the business of importer of motor vehicle fuels, such person shall pay all delinquent taxes and penalties due hereunder remaining unpaid by him.

(Apr. 23, 1924, 43 Stat. 106, ch. 131, § 3; Aug. 17, 1937, 50 Stat. 677, ch. 690, title III, § 3; June 11, 1960, 74 Stat. 203, Pub. L. 86-507, § 1(55); Mar. 4, 1981, D.C. Law 3-128, § 11(d), (e), 28 DCR 246; July 26, 1989, D.C. Law 8-17, § 6(b), 36 DCR 4160; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-264, § 52(o), 46 DCR 2118.)

**Section references.** — This section is referred to in §§ 47-2301, 47-2302, 47-2312, and 47-2314.

**Prior Codifications.** — 1981 Ed., § 47-2303.

1973 Ed., § 47-1903.

**Legislative history of Law 3-128.** — For legislative history of D.C. Law 3-128, see Historical and Statutory Notes following § 47-2301.

**Legislative history of Law 8-17.** — For

legislative history of D.C. Law 8-17, see Historical and Statutory Notes following § 47-2301.

**Legislative history of Law 12-264.** — For legislative history of D.C. Law 12-264, see Historical and Statutory Notes following § 47-2302.

**Editor's notes.** — Office of Collector of Taxes abolished: See Historical and Statutory Notes following § 47-401.

Office of Assessor abolished: See Historical and Statutory Notes following § 47-413.

## CASE NOTES

### ANALYSIS

In general.  
Validity.

### In general.

Foreign corporation was not entitled to a license to import motor-vehicle fuel into the District of Columbia where it failed to meet the qualifications of the statute and police regulation requiring an importer qualifying for a license to designate a local representative and to maintain a local office or place of business within the District. 47 D.C. Code 1961, §§ 1903(a), 1916. *Cities Service Oil Co. v. Tobriner*, 306 F.2d 752, 1962 U.S. App. LEXIS 4957 (C.A.D.C. 1962).

District of Columbia Motor Fuel Tax Law and police regulation required that foreign corporation acting thereunder designate local representative, but did not require designation of resident general agent by corporation which maintained no such agent. D.C. Code 1951, §§ 47-1903, 47-1916. *Cities Service Oil Co. v. McLaughlin*, 292 F.2d 759, 1961 U.S. App. LEXIS 4407 (C.A.D.C. 1961).

Under statute requiring foreign corporation applying for license to engage in district in business of importer of motor fuels to state in application the name of its resident general agent, designation of resident general agent is a prerequisite to engaging in business of importing fuels and where foreign importer, in application for license, stated that it had no general agent but gave name of limited agent, Commissioners properly declined to grant license. D.C. Code 1951, § 47-1903. *Cities Service Oil Co. v. McLaughlin*, 189 F.Supp. 227, 1960 U.S. Dist. LEXIS 3202 (D.D.C.1960).

### Validity.

Requirement that foreign corporation applying for license to import motor fuels into District of Columbia state on application name of its resident general agent was clearly connected with granting of license and requirement was entirely within legislative discretion and was not unconstitutional on ground that it was arbitrary, unreasonable, and unnecessary. D.C. Code 1951, § 47-1903. *Cities Service Oil Co. v. McLaughlin*, 189 F.Supp. 227, 1960 U.S. Dist. LEXIS 3202 (D.D.C.1960).

## § 47-2304. Monthly report of amount of fuel sold.

Each importer engaged in the District of Columbia in the sale or other disposition or use of motor vehicle fuel shall render to the Assessor of the District of Columbia, on or before the 25th day of each calendar month, on forms prescribed, prepared, and furnished by the said Assessor, a sworn report of the total number of gallons of motor vehicle fuel within the District of Columbia sold or otherwise disposed of by such importer or used by him in a motor vehicle operated for hire or for commercial purposes, and of the number of gallons of such fuel so sold or otherwise disposed of for exportation from and resale without the District of Columbia, during the preceding calendar month. Such report shall be sworn to by one of the principal officers in case of a domestic corporation, by the resident general agent, or attorney in fact, or by a chief accountant or officer in case of a foreign corporation, or by the managing agent or owner in case of a partnership or association.



(Apr. 23, 1924, 43 Stat. 106, ch. 131, § 4; Dec. 26, 1941, 55 Stat. 871, ch. 635, § 2; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Section references.** — This section is referred to in §§ 47-2301, 47-2302, 47-2303, 47-2312, and 47-2314.

**Prior Codifications.** — 1981 Ed., § 47-2304.

1973 Ed., § 47-1904.

**Editor's notes.** — Office of Assessor abolished: See Historical and Statutory Notes following § 47-413.

## § 47-2305. Importers to render invoices except in cases of retail sales.

Invoices shall be rendered by importers and distributors to all purchasers from them of motor vehicle fuel within the District of Columbia except in case of retail sales. Said invoices shall contain a statement, printed thereon in a conspicuous place, that the liability to the District of Columbia for the tax herein imposed has been assumed by a licensed importer named in said statement and that the importer has paid the tax or will pay it on or before the 25th day of the calendar month next succeeding the purchase.

(Apr. 23, 1924, 43 Stat. 106, ch. 131, § 5; Aug. 17, 1937, 50 Stat. 678, ch. 690, title III, § 4; Dec. 26, 1941, 55 Stat. 871, ch. 635, § 2; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Section references.** — This section is referred to in §§ 47-2301, 47-2302, 47-2303, 47-2308, 47-2312, and 47-2314.

**Prior Codifications.** — 1981 Ed., § 47-2305.

1973 Ed., § 47-1905.

## § 47-2306. Payment of tax.

(a) The tax in respect to motor vehicle fuel so sold or otherwise disposed of or used in any calendar month shall be paid by the importer on or before the 25th day of the next succeeding calendar month to the Collector of Taxes of the District of Columbia, who shall issue a receipt to the importer therefor.

(b) In the event a user obtains, sells, uses, or otherwise disposes of motor vehicle fuel in the District of Columbia upon which the tax imposed by this subchapter has not been paid, he shall be liable for the tax, penalties, and interest on such motor vehicle fuel as provided for in this subchapter.

(Apr. 23, 1924, 43 Stat. 106, ch. 131, § 6; Dec. 26, 1941, 55 Stat. 871, ch. 635, § 2; Mar. 4, 1981, D.C. Law 3-128, § 11(f), 28 DCR 246; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-264, § 52(o), 46 DCR 2118.)

**Section references.** — This section is referred to in §§ 47-2301, 47-2302, 47-2303, 47-2312, and 47-2314.

**Prior Codifications.** — 1981 Ed., § 47-2306.

1973 Ed., § 47-1906.

**Legislative history of Law 3-128.** — For

legislative history of D.C. Law 3-128, see Historical and Statutory Notes following § 47-2301.

**Legislative history of Law 12-264.** — For legislative history of D.C. Law 12-264, see Historical and Statutory Notes following § 47-2302.

**Editor's notes.** — Office of Collector of Taxes abolished: See Historical and Statutory Notes following § 47-401.

## § 47-2307. Records subject to inspection of Assessor and Collector.

The records of all purchases, receipts, sales, other dispositions, and uses of motor vehicle fuel of every importer, distributor, user, or dealer shall, at all times during the business hours of the day, be subject to inspection by the Assessor and the Collector of Taxes of the District of Columbia, or by their duly authorized agents or by any other agent duly authorized by the Mayor to make such inspection.

(Apr. 23, 1924, 43 Stat. 106, ch. 131, § 7; Aug. 17, 1937, 50 Stat. 678, ch. 690, title III, § 5; Mar. 4, 1981, D.C. Law 3-128, § 11(g), 28 DCR 246; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Section references.** — This section is referred to in §§ 47-2301, 47-2302, 47-2303, 47-2312, and 47-2314.

**Prior Codifications.** — 1981 Ed., § 47-2307.

1973 Ed., § 47-1907.  
**Legislative history of Law 3-128.** — For legislative history of D.C. Law 3-128, see His-

torical and Statutory Notes following § 47-2301.

**Editor's notes.** — Office of Assessor abolished: See Historical and Statutory Notes following § 47-413.

Office of Collector of Taxes abolished: See Historical and Statutory Notes following § 47-401.

## § 47-2308. Penalty for accepting fuel from importer without an itemized sale statement.

It shall be unlawful for any person to accept or receive from any importer or distributor, except in cases of retail sales, any motor vehicle fuel unless the statement provided for in § 47-2305 appears upon the invoice for the fuel. If any such motor vehicle fuel is received and accepted by any person upon the invoice of which said statement does not appear, such person shall pay to the Collector of Taxes the tax herein imposed.

(Apr. 23, 1924, 43 Stat. 106, ch. 131, § 8; Aug. 17, 1937, 50 Stat. 679, ch. 690, title III, § 6; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Section references.** — This section is referred to in §§ 47-2301, 47-2302, 47-2303, 47-2312, and 47-2314.

**Prior Codifications.** — 1981 Ed., § 47-2308.

1973 Ed., § 47-1908.

**Editor's notes.** — Office of Collector of Taxes abolished: See Historical and Statutory Notes following § 47-401.

## § 47-2309. Fuel exported from District of Columbia exempted from taxation.

No tax on motor vehicle fuels exported or sold for exportation from the District of Columbia to any other jurisdiction or nation shall be imposed.

(Apr. 23, 1924, 43 Stat. 106, ch. 131, § 9; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)



**Section references.** — This section is referred to in §§ 47-2301, 47-2302, 47-2303, 47-2312, and 47-2314.

**Prior Codifications.** — 1981 Ed., § 47-2309.  
1973 Ed., § 47-1909.

## § 47-2310. Penalties. [Repealed].

Repealed.

(Apr. 23, 1924, 43 Stat. 106, ch. 131, § 11; Aug. 17, 1937, 50 Stat. 679, ch. 690, title III, § 7; Mar. 4, 1981, D.C. Law 3-128, § 11(h), 28 DCR 246; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-264, § 52(o), 46 DCR 2118; June 9, 2001, D.C. Law 13-305, § 406(nn)(2), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-2310.

1973 Ed., § 47-1911.

**Legislative history of Law 3-128.** — For legislative history of D.C. Law 3-128, see Historical and Statutory Notes following § 47-2301.

**Legislative history of Law 12-264.** — For legislative history of D.C. Law 12-264, see Historical and Statutory Notes following § 47-2302.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor's notes.** — Section 410(d) of D.C. Law 13-305 provided: "Section 406(a), (c), (j), (m), (p), (q), (s), (w), (bb), (dd), (ee), (hh) through (kk), (mm) through (oo), (qq) through (uu), (yy), (zz), (bbb), (ddd), and (fff) shall apply for all tax years or taxable periods beginning after December 31, 2000."

## § 47-2311. Tax on fuel sold by United States agency in the District of Columbia.

When under authority of law gasoline or other motor vehicle fuel is sold by an agency of the United States within the District of Columbia, for use in privately-owned vehicles, such agency of the United States shall, by agreement with the Mayor of the District of Columbia, arrange for the collection of the tax herein authorized to be imposed, and for accounting to the Collector of Taxes of the District of Columbia for the proceeds of such tax collections.

(Apr. 23, 1924, 43 Stat. 106, ch. 131, § 14; June 4, 1952, 66 Stat. 100, ch. 366, § 2; May 18, 1954, 68 Stat. 117, ch. 218, title XI, § 1102; Sept. 30, 1966, 80 Stat. 858, Pub. L. 89-610, title VII, § 802; Dec. 15, 1971, 85 Stat. 653, Pub. L. 92-196, title III, § 301(d); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Section references.** — This section is referred to in §§ 47-2301, 47-2302, 47-2303, 47-2312, and 47-2314.

**Prior Codifications.** — 1981 Ed., § 47-2311.

1973 Ed., § 47-1912.

**Editor's notes.** — Office of Collector of Taxes abolished: See Historical and Statutory Notes following § 47-401.

## § 47-2312. Prosecutions.

All prosecutions for violations of the provisions of §§ 47-2301 to 47-2315 or regulations prescribed thereunder may be in the Superior Court of the District of Columbia, upon information filed by the Attorney General for the District of Columbia or any of his assistants; and all suits for the collection of any tax or

penalty under §§ 47-2301 to 47-2315 or such regulations shall be instituted by the Attorney General for the District of Columbia or any of his assistants.

(Apr. 23, 1924, 43 Stat. 106, ch. 131, § 15; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 13, 2005, D.C. Law 15-354, § 73(h), 52 DCR 2638.)

**Section references.** — This section is referred to in §§ 47-2301, 47-2302, 47-2303, and 47-2314.

**Prior Codifications.** — 1981 Ed., § 47-2312.  
1973 Ed., § 47-1913.

**Effect of amendments.** — D.C. Law 15-354 substituted “Attorney General for the District of Columbia” for “Corporation Counsel”.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

### § 47-2313. Public hackers not affected.

Nothing in this subchapter shall be construed in any wise to affect the provisions of §§ 47-2829 to 47-2831.

(Apr. 23, 1924, 43 Stat. 106, ch. 131, § 16; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-264, § 52(o), 46 DCR 2118.)

**Section references.** — This section is referred to in §§ 47-2301, 47-2302, 47-2303, 47-2312, and 47-2314.

**Prior Codifications.** — 1981 Ed., § 47-2313.

1973 Ed., § 47-1914.

**Legislative history of Law 12-264.** — For legislative history of D.C. Law 12-264, see Historical and Statutory Notes following § 47-2302.

### § 47-2314. Personal property tax laws not affected.

Nothing in §§ 47-2301 to 47-2315 shall be construed as affecting the application to motor vehicles of the personal property tax in force on May 3, 1924, which personal property tax shall continue to be levied, assessed, and collected on motor vehicles.

(Apr. 23, 1924, 43 Stat. 106, ch. 131, § 17; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Section references.** — This section is referred to in §§ 47-2301, 47-2302, 47-2303, and 47-2312.

**Prior Codifications.** — 1981 Ed., § 47-2314.

1973 Ed., § 47-1915.

### § 47-2315. Mayor to issue rules.

The Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue rules to implement the provisions of this subchapter.

(Apr. 23, 1924, 43 Stat. 106, ch. 131, § 18; July 26, 1989, D.C. Law 8-17, § 6(c), 36 DCR 4160; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-264, § 52(o), 46 DCR 2118.)



**Cross references.** — Tax rates, records and surplus funds, authority of Council to change certain tax rates, see § 47-504.

**Section references.** — This section is referred to in §§ 47-2301, 47-2302, 47-2303, 47-2312, and 47-2314.

**Prior Codifications.** — 1981 Ed., § 47-2315.

1973 Ed., § 47-1916.

**Legislative history of Law 8-17.** — For legislative history of D.C. Law 8-17, see Historical and Statutory Notes following § 47-2301.

**Legislative history of Law 12-264.** — For legislative history of D.C. Law 12-264, see Historical and Statutory Notes following § 47-2302.

## § 47-2316. Procedure for determination, redetermination, assessment, or reassessment; interest penalty; liability for payment.

If a report required by this subchapter is not filed, or if the report when filed is incorrect or insufficient, or if the tax as imposed by this subchapter has been determined to be due from a licensee or another person, the amount of tax due shall be determined by the Mayor from information as may be obtainable. Notice of the determination shall be given to the licensee or other person required to file a report or pay the tax. Assessments of any deficiencies in the tax due under this chapter, or any interest and penalties thereon, shall be governed by § 47-4312.

(Apr. 23, 1924, 43 Stat. 106, ch. 131, § 19, as added Mar. 4, 1981, D.C. Law 3-128, § 11(i), 28 DCR 246; Feb. 28, 1987, D.C. Law 6-209, § 401, 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-264, § 52(o), 46 DCR 2118; June 9, 2001, D.C. Law 13-305, § 406(oo), 48 DCR 334; Dec. 7, 2004, D.C. Law 15-217, § 4(d), 51 DCR 9126.)

**Section references.** — This section is referred to in § 47-2319.

**Prior Codifications.** — 1981 Ed., § 47-2316.

**Effect of amendments.** — D.C. Law 13-305 rewrote the section.

D.C. Law 15-217 rewrote the section.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(d) of Office of Administrative Hearings Establishment Emergency Amendment Act of 2004 (D.C. Act 15-513, August 2, 2004, 51 DCR 8976).

For temporary (90 day) amendment of section, see § 3(d) of Office of Administrative Hearings Establishment Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-553, October 26, 2004, 51 DCR 10359).

**Legislative history of Law 3-128.** — For legislative history of D.C. Law 3-128, see Historical and Statutory Notes following § 47-2301.

**Legislative history of Law 6-209.** — For

legislative history of D.C. Law 6-209, see Historical and Statutory Notes following § 47-451.

**Legislative history of Law 12-264.** — For legislative history of D.C. Law 12-264, see Historical and Statutory Notes following § 47-2302.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Legislative history of Law 15-217.** — For Law 15-217, see notes following § 47-1528.

**Effective date.** — Section 601(b) of D.C. Law 6-209 provided that title III and sections 401, 402, 404, 405 and 406 of the act shall take effect on October 1, 1987.

**Editor's notes.** — Section 410(d) of D.C. Law 13-305 provided: "Section 406(a), (c), (j), (m), (p), (q), (s), (w), (bb), (dd), (ee), (hh) through (kk), (mm) through (oo), (qq) through (uu), (yy), (zz), (bbb), (ddd), and (fff) shall apply for all tax years or taxable periods beginning after December 31, 2000."

## § 47-2317. Collection; liens. [Repealed].

Repealed.

(Apr. 23, 1924, 43 Stat. 106, ch. 131, § 20, as added Mar. 4, 1981, D.C. Law

3-128, § 11(i), 28 DCR 246; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-264, § 52(o), 46 DCR 2118; June 9, 2001, D.C. Law 13-305, § 406(pp)(2), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-2317.

**Legislative history of Law 3-128.** — For legislative history of D.C. Law 3-128, see Historical and Statutory Notes following § 47-2301.

**Legislative history of Law 12-264.** — For legislative history of D.C. Law 12-264, see Historical and Statutory Notes following § 47-2302.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor's notes.** — Section 410(e) of D.C. Law 13-305 provided: "Section 406(b), (d), (f), (l), (n), (o), (r), (v), (x) through (aa), (cc), (ff), (gg), (ll), (pp), (vv), (ww), (aaa), (ccc), (eee), and (ggg) shall apply as of January 1, 2001."

## § 47-2318. Refund for erroneous or illegal collection.

Where any tax has been erroneously or illegally collected by the District, the tax shall be refunded if application under oath is filed with the Mayor for such refund within 3 years from the payment thereof. Such application must be made by the person upon whom such tax was imposed and who has actually paid the tax. Application for a refund as herein provided shall be deemed an application for a revision of tax, penalty, and/or interest complained of and the Mayor may receive evidence with respect thereto. After making his determination of whether any refund shall be made, the Mayor shall give notice thereof to the applicant.

(Apr. 23, 1924, 43 Stat. 106, ch. 131, § 21, as added Mar. 4, 1981, D.C. Law 3-128, § 11(i), 28 DCR 246; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2318.

**Legislative history of Law 3-128.** — For

legislative history of D.C. Law 3-128, see Historical and Statutory Notes following § 47-2301.

## § 47-2319. Judicial review.

Any person aggrieved by a final determination of tax or by a denial of a claim for refund, other than a refund of tax finally determined in § 47-2316, may within 6 months from the date of assessment of the deficiency, or from the date of the denial of a claim for refund, appeal to the Superior Court of the District of Columbia in the same manner and to the same extent as set forth in §§ 47-3303 and 47-3304 as amended.

(Apr. 23, 1924, 43 Stat. 106, ch. 131, § 22, as added Mar. 4, 1981, D.C. Law 3-128, § 11(i), 28 DCR 246; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2319.

**Legislative history of Law 3-128.** — For

legislative history of D.C. Law 3-128, see Historical and Statutory Notes following § 47-2301.



## § 47-2320. Contraband; declaration; forfeiture; seizure; search; confiscation; sale.

(a) All motor vehicle fuels found in any place in the District of Columbia at such time and under such circumstances that the taxes levied and imposed by this subchapter should have been collected and paid, and on which such taxes have not been paid as required by this subchapter, shall be declared contraband goods and be forfeited to the District of Columbia. The Mayor may seize any such motor vehicle fuels wherever they are found.

(b) In any case where the Mayor has knowledge or reason to suspect that any vehicle is carrying motor vehicle fuel in violation of any provisions of this subchapter, the Mayor is authorized to stop such vehicle and to inspect the same for contraband motor vehicle fuel. If such vehicle is carrying motor vehicle fuel in violation of any provision of this subchapter, the motor vehicle fuel and the vehicle shall be confiscated.

(c) The Mayor shall not in any way be held responsible in any court for the seizure or the confiscation of any motor vehicle fuel or vehicles which are seized or confiscated under the provisions of this subchapter. Any motor vehicle fuel or vehicles so seized shall be sold in the same manner as personal property seized for the payment of District of Columbia taxes, and the proceeds of such sales shall be deposited to the credit of the District of Columbia. Notwithstanding the provisions of this section, if the Mayor believes that any failure to comply with the provisions of this subchapter is excusable, the Mayor may, in his discretion, return to the owner or owners thereof any motor vehicle fuel or vehicles seized under the provisions of this section.

(Apr. 23, 1924, 43 Stat. 106, ch. 131, § 23, as added Mar. 4, 1981, D.C. Law 3-128, § 11(i), 28 DCR 246; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-264, § 52(o), 46 DCR 2118.)

**Cross references.** — Metropolitan police, Property Clerk, return of property to owner, property disposition, see § 5-119.06.

**Prior Codifications.** — 1981 Ed., § 47-2320.

**Legislative history of Law 3-128.** — For legislative history of D.C. Law 3-128, see His-

torical and Statutory Notes following § 47-2301.

**Legislative history of Law 12-264.** — For legislative history of D.C. Law 12-264, see Historical and Statutory Notes following § 47-2302.

### CASE NOTES

#### Construction and application.

Forfeiture is penal in nature and may be harsh remedy; accordingly, courts apply forfeiture statutes with care, strictly construing

their provisions. *District of Columbia v. 313 M St.*, 633 A.2d 820, 1993 D.C. App. LEXIS 292 (1993).

## § 47-2321. Rules and regulations by Mayor.

The Mayor may issue rules and regulations not inconsistent with the provisions of § 47-2005 or this subchapter or both, in order to properly administer the provisions of § 47-2005 or this subchapter, or both.

(Mar. 4, 1981, D.C. Law 3-128, § 13, 28 DCR 246; enacted, Apr. 9, 1997, D.C.

Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-264, § 52(o), 46 DCR 2118.)

**Prior Codifications.** — 1981 Ed., § 47-2321.

**Legislative history of Law 3-128.** — For legislative history of D.C. Law 3-128, see Historical and Statutory Notes following § 47-2301.

**Legislative history of Law 12-264.** — For legislative history of D.C. Law 12-264, see Historical and Statutory Notes following § 47-2302.

## § 47-2322. Severability; savings clauses.

(a) If any provision of § 47-2005 or this subchapter, or both, including any amendment made by § 47-2005 or this subchapter, or both, or the application thereof to any person or circumstance, is held invalid, the remainder of the provisions of § 47-2005 or this subchapter, or both, including the remaining amendments thereof, and the application of such provision to other persons or circumstances shall not be affected thereby.

(b) The repeal or amendment by § 47-2005 or this subchapter, or both, or any provision of law shall not affect any act done or any right accrued or accruing under such provision of law before March 4, 1981, or both, or any suit or proceeding had or commenced before March 4, 1981, or both, but all such rights and liabilities under this subchapter and § 47-2005 shall continue, and may be enforced in the same manner and the same extent, as if such repeal or amendment had not been made.

(c) All offenses committed, and all penalties incurred, prior to March 4, 1981, or both, under any provision of law repealed or amended, may be prosecuted and punished in the same manner and with the same effect as if § 47-2005 and this subchapter, or both, had not been enacted.

(Mar. 4, 1981, D.C. Law 3-128, § 14, 28 DCR 246; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-264, § 52(o), 46 DCR 2118.)

**Prior Codifications.** — 1981 Ed., § 47-2322.

**Legislative history of Law 3-128.** — For legislative history of D.C. Law 3-128, see Historical and Statutory Notes following § 47-2301.

**Legislative history of Law 12-264.** — For legislative history of D.C. Law 12-264, see Historical and Statutory Notes following § 47-2302.

## § 47-2323. Assessments for street paving — Generally.

Assessments in accordance with existing law shall be made for paving and repaving roadways, where such roadways are paved or repaved, with funds derived from the collection of the tax on motor vehicle fuels.

(Mar. 3, 1926, 44 Stat. 167, ch. 44, § 1; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2323.

1973 Ed., § 47-1917.



## § 47-2324. Assessments for street paving — Deposit into General Fund.

All moneys derived from assessments for paving and repaving roadways under provisions of existing law shall be paid into the General Fund of the District of Columbia as established by § 47-131.

(June 7, 1924, 43 Stat. 550, ch. 302; Jan. 22, 1976, D.C. Law 1-42, § 3(b), 22 DCR 6311; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2324.  
1973 Ed., § 47-1918.

**Legislative history of Law 1-42.** — For legislative history of D.C. Law 1-42, see Historical and Statutory Notes following § 47-2301.

## § 47-2325. Continuation of uncompleted projects at end of fiscal year.

Any projects or portions of projects chargeable to the Gasoline Tax Road and Street Improvement Fund during the fiscal year 1925 and subsequent fiscal years and uncompleted at the close of those years shall be a continuing charge upon the Fund until completed and shall, except insofar as conditions beyond the control of the Mayor prevent, be given priority over projects subsequently made a charge upon such Fund.

(Mar. 3, 1925, 43 Stat. 1226, ch. 477; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2325.  
1973 Ed., § 47-1919.

### *Subchapter II. International Fuel Tax Agreements.*

## § 47-2351. Reciprocal agreements.

(a) The Mayor is authorized to enter into reciprocal agreements on behalf of the District with the duly authorized representatives of any jurisdiction of the United States or of a foreign country to satisfy the requirements of the IFTA. The Mayor is expressly authorized to enter into the IFTA and become a member of the International Fuel Tax Association, Inc., or such other organization that may, from time to time, be created to implement the reporting requirements of the IFTA.

(b) The IFTA and any other agreements associated with the IFTA that are entered into by the Mayor shall take precedence over any District law or regulation that may be in conflict with such agreements.

(c) The District, as a member jurisdiction to the IFTA, shall provide reciprocity to motor vehicle carriers that are engaged in interjurisdictional movement and intrajurisdictional movement, and are properly registered with another member jurisdiction.

(Sept. 18, 1998, D.C. Law 12-153, § 2(d), 45 DCR 3853.)

**Prior Codifications.** — 1981 Ed., § 47-2351.

**Legislative history of Law 12-153.** — Law 12-153, the “International Fuel Tax Agreement Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-422, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 7, 1998, and May 5, 1998, respectively. Signed by the Mayor on May 22, 1998, it was assigned Act No. 12-370 and transmitted to both Houses of Congress for its review. D.C. Law 12-153 became effective on September 18, 1998.

**Editor’s notes.** — Withdrawal from Compact on Taxation of Motor Fuels Consumed by Interstate Buses: Section 3 of D.C. Law 12-153 provided that the District of Columbia withdraws from participation in the Compact on Taxation of Motor Fuels Consumed by Interstate Buses, approved April 14, 1965 (P.L. 89-11; 79 Stat. 58).

Complementary Legislation: D.C.—D.C. Official Code, 2001 Ed. §§ 47-2351 to 47-2354. Neb.—R.R.S. 1943, §§ 66-1401 to 66-1415.

## § 47-2352. Registration.

(a) The Mayor shall implement a program for a uniform system of licensing and payment of fuel taxes by interjurisdictional motor carriers fleets consistent with the IFTA.

(b) Repealed.

(c)(1) Commercial vehicles exhibiting the following characteristics shall declare a jurisdictional base and obtain the apportioned credentials issued under the terms of the IFTA:

(A) Vehicles with 2 axles and GVWR of more than 26,000 pounds;

(B) Vehicles with 3 or more axles regardless of weight; or

(C) When used in combination, the weight of the combination exceeds 26,000 pounds.

(d) Any vehicle required or eligible to obtain registration under the IFTA that lists the District as the established place of business must declare the District of Columbia as its jurisdictional base pursuant to the IFTA.

(e) Repealed.

(Sept. 18, 1998, D.C. Law 12-153, § 2(d), 45 DCR 3853; June 9, 2001, D.C. Law 13-305, § 302(e), 48 DCR 334.)

**Cross references.** — Traffic regulation, rules, fees, fines and penalties, original certificate of title, certain motor vehicles and trailers exempt, see § 50-2201.03.

**Prior Codifications.** — 1981 Ed., § 47-2352.

**Effect of amendments.** — D.C. Law 13-305 repealed subsec. (b), rewrote subsec. (c), and repealed subsec. (e).

Prior to repeal, subsecs. (b) and (e) read:

“(b) All commercial vehicles with a GVWR of over 10,000 pounds and engaged in the interjurisdictional transport of goods or passengers shall be eligible for uniform licensing and payment of fuel taxes.”

“(e) Vehicles qualifying for registration for the IFTA under subsection (b) of this section, but not apportioned or covered by reciprocity,

and engaged in interjurisdictional movement, shall acquire a trip pass prior to entering the District.”

Prior to amendment, subsec. (c) read:

“(c) Vehicles exhibiting the following characteristics shall declare a jurisdictional base and obtain the apportioned credentials issued under the terms of the IFTA:

“(1) Vehicles with two axles and a GVWR of 26,000 pounds or more; or

“(2) Vehicles with three or more axles.”

**Legislative history of Law 12-153.** — For legislative history of D.C. Law 12-153, see Historical and Statutory Notes following § 47-2351.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.



### § 47-2353. Auditing.

The Mayor shall adopt audit procedures consistent with the IFTA to review the uniform mileage schedules and fleet records of apportioned operators that declare the District their jurisdictional base. The audit procedures shall involve at least 15% of the IFTA apportioned vehicles whose operators declare the District as their jurisdictional base over a 5-year period.

(Sept. 18, 1998, D.C. Law 12-153, § 2(d), 45 DCR 3853.)

**Prior Codifications.** — 1981 Ed., § 47-2353. legislative history of D.C. Law 12-153, see Historical and Statutory Notes following § 47-

**Legislative history of Law 12-153.** — For 2351.

### § 47-2354. Fees.

The Mayor shall establish a registration fee schedule for commercial vehicles to carry out the purpose of this subchapter. The money generated from the fees shall be placed in a designated account and used to offset the cost of implementing the provisions of this subchapter.

(Sept. 18, 1998, D.C. Law 12-153, § 2(d), 45 DCR 3853.)

**Prior Codifications.** — 1981 Ed., § 47-2354. legislative history of D.C. Law 12-153, see Historical and Statutory Notes following § 47-

**Legislative history of Law 12-153.** — For 2351.

CHAPTER 24. CIGARETTE TAX.

Sec.

- 47-2401. Definitions.
- 47-2402. Imposition; payment.
- 47-2402.01. Weight-based excise tax.
- 47-2403. Exemptions.
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- 47-2411.01. [Repealed].
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- 47-2414. [Repealed].
- 47-2415. Regulations.

Sec.

- 47-2416. Severability.
- 47-2417. Effective date.
- 47-2418. Cigarette tax stamps purchased or held prior to effective date; payment of tax; records.
- 47-2419. Prohibitions on gray market cigarettes.
- 47-2420. Documentation.
- 47-2421. Criminal penalties.
- 47-2422. Civil penalties and administrative sanctions.
- 47-2423. Seizure and forfeiture of gray market cigarettes.
- 47-2424. Unfair cigarette sales.
- 47-2425. General provisions.
- 47-2426. Application of §§ 47-2419 through 47-2425.

§ 47-2401. Definitions.

As used in this chapter, unless the context clearly indicates otherwise:

(1) The term “cigar” means any roll of tobacco wrapped in leaf tobacco or in any substance containing tobacco, except that the term shall not include products treated as cigarettes.

(1A) The term “cigarette” means:

(A) Any roll for smoking containing tobacco wrapped in paper or in any substance other than tobacco leaf;

(B) Any roll for smoking containing tobacco, wrapped in any substance, weighing 4 pounds per thousand or less, except those wrapped entirely in whole tobacco leaf that do not have a filter; or

(C) Any roll for smoking containing tobacco wrapped in any substance, however labeled or named, flavored or not, which because of its appearance, size, the type of tobacco used in the filler, or its packaging, pricing, marketing, or labeling, is likely to be offered to, purchased by, or consumed by consumers as a cigarette as described in this paragraph.

(2) The term “consumer” means any person who manufactures or possesses cigarettes for his own consumption or for transfer, without consideration, to another consumer, but not for transfer to other persons or for transfer with consideration.

(3) The term “District” means the District of Columbia.

(3A) The term “importer” means “importer” as the term is defined in section 5702(l) of the Internal Revenue Code of 1986, approved October 22, 1986 (68A Stat. 707; 26 U.S.C. § 5702(l)) [now 26 U.S.C. § 5702(k)].

(3B) The term “manufacturer” means “manufacturer of tobacco products” as the term is defined in section 5702(d) of the Internal Revenue Code of 1986, approved October 22, 1986 (68A Stat. 707; 26 U.S.C. § 5702(d)).

(4) The term “Mayor” means the Mayor of the District of Columbia or his authorized representatives.



(5) The term “original package” means a sealed package into which cigarettes, cigars, or other tobacco products are put up by the manufacturer for sale to consumers; provided, that if the package contains smaller-size packages that are also intended by the manufacturer for sale to consumers, only the smallest-size sealed package intended for sale to consumers shall be considered the original package.

(5A) The term “other tobacco product” means a cigar, pipe tobacco, chewing tobacco, smokeless tobacco, snuff, roll-your-own tobacco, or any other product containing tobacco that is intended for human consumption.

(5B) The term “package” means “package” as the term is defined in section 3(4) of the Federal Cigarette Labeling and Advertising Act, approved July 27, 1965 (79 Stat. 282; 15 U.S.C. § 1332(4)).

(6) The term “person” means any individual, partnership, society, club, association, joint-stock company, corporation, estate, receiver, trustee, assignee, referee, and any person acting in a fiduciary or representative capacity, whether appointed by a court or otherwise; any combination of individuals or entities acting as a unit, or any officer or employee of a corporation or member or employee of a partnership, who as such officer, employee, or member is under a duty to perform the act in respect to which the violation occurs.

(7) The term “possession” includes actual or constructive possession, having legal title or an equitable interest which entitles a person to such possession, and the exercise of any right or power incident to such ownership or possession.

(8) The term “sell” or “sale” means any transaction where title or possession, or both, of cigarettes is, or is to be, transferred in any manner or by any means whatsoever, whether with or without consideration. The word “sell” or “sale” includes offering for sale, keeping for sale, or displaying for sale.

(8A) The term “smokeless tobacco” means any finely cut, ground, or powdered tobacco that is not intended to be smoked or any leaf tobacco that is not intended to be smoked.

(9) The term “stamp” means any fusion decal stamps, impressions made by metering devices, or other indicia authorized by the Mayor as evidence that the tax levied and imposed by this chapter has been paid.

(10) The term “vending machine” means any automated, self-service device that dispenses cigarettes upon insertion of money, tokens, or any other form of payment.

(May 27, 1949, 63 Stat. 136, ch. 146, title VI, § 602; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; May 2, 1991, D.C. Law 8-262, § 4(a), 37 DCR 8434; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 3, 2001, D.C. Law 13-225, § 2(b), 48 DCR 35; Oct. 19, 2002, D.C. Law 14-213, § 33(x), 49 DCR 8140; Mar. 3, 2010, D.C. Law 18-111, § 7241(i)(2), 57 DCR 181; July 23, 2010, D.C. Law 18-189, § 4(a), 57 DCR 3019.)

**Prior Codifications.** — 1981 Ed., § 47-2401. rewrote par. (1): and added pars. (3A), (3B), and (5A).

1973 Ed., § 47-2801.

Prior to amendment, par. (1) read:

**Effect of amendments.** — D.C. Law 13-225

“(1) The term ‘cigarette’ means any roll of

tobacco, or any substitute therefor, which is wrapped in paper or in any substance other than tobacco.”

D.C. Law 14-213, in par. (5A), validated a previously made technical correction.

D.C. Law 18-111 rewrote par. (1).

D.C. Law 18-189 redesignated former par. (1) as par. (1A); added pars. (1), (5A), and (8A); rewrote par. (5); and redesignated former par. (5A) as par. (5B). Prior to amendment, par. (5) read as follows: “(5) The term ‘original package’ means the individual package, box, parcel, or other container in which cigarettes are put up by the manufacturer. The term ‘original package’ also includes any wrapper immediately enclosing such package, box, parcel, or other container that is prescribed by the Mayor as part of the original package.”

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 7121(a) of Fiscal Year 2010 Budget Support Emergency Act of 2009 (D.C. Act 18-187, August 26, 2009, 56 DCR 7374).

For temporary (90 day) amendment of section, see § 7241(i)(2) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2(a), (b)(2), of Tobacco Excise Tax Emergency Amendment Act of 2009 (D.C. Act 18-214, October 21, 2009, 56 DCR 8496).

For temporary (90 day) amendment of section, see § 7241(i)(2) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 4-71.** — Law 4-71, the “Cigarette Tax Amendment Act of 1981,” was introduced in Council and assigned Bill No. 4-152, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 27, 1981 and November 10, 1981, respec-

tively. Signed by the Mayor on December 2, 1981, it was assigned Act No. 4-118 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 8-262.** — Law 8-262, the “Smoking Regulation Amendment Act of 1990,” was introduced in Council and assigned Bill No. 8-581, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on November 20, 1990, and December 4, 1990, respectively. Signed by the Mayor on December 14, 1990, it was assigned Act No. 8-278 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 13-225.** — Law 13-225, the “Gray Market Cigarette Prohibition Act of 2000,” was introduced in Council and assigned Bill No. 13-530, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 3, 2000, and November 8, 2000, respectively. Signed by the Mayor on November 29, 2000, it was assigned Act No. 13-487 and transmitted to both Houses of Congress for its review. D.C. Law 13-225 became effective on April 3, 2001.

**Legislative history of Law 14-213.** — For Law 14-213, see notes following § 47-820.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-305.02.

**Legislative history of Law 18-189.** — Law 18-189, the “Prohibition Against Selling Tobacco Products to Minors Amendment Act of 2010,” was introduced in Council and assigned Bill No. 18-431, which was referred to the Committee on Public Safety and the Judiciary. The Bill was adopted on first and second readings on January 5, 2010, and February 2, 2010, respectively. Enacted without signature by the Mayor on May 11, 2010, it was assigned Act No. 18-352 and transmitted to both Houses of Congress for its review. D.C. Law 18-189 became effective on July 23, 2010.

## § 47-2402. Imposition; payment.

(a)(1) Except as otherwise provided in § 47-2403, a tax is levied and imposed on the sale or possession on all cigarettes in the District of Columbia at the rate of \$0.125 for each cigarette.

(2) Subject to paragraph (3) of this subsection and in lieu of the tax otherwise imposed by § 47-2002, a surtax is levied and imposed on the sale or possession of all cigarettes in the District at the rate of \$0.36 per package of 20 or fewer cigarettes. If there are more than 20 cigarettes in the package, the surtax per pack will be incrementally increased by \$.018 per each cigarette above 20.

(3)(A) Beginning as of March 31, 2012, and on March 31st of each year thereafter, the Mayor shall calculate the average retail price of a package of cigarettes from the best information available and shall recompute the surtax



on the basis of the then applicable sales and use tax rate that otherwise would be applicable to the sale of cigarettes under § 47-2002.

(B) In calculating the average retail price for purposes of this paragraph, the Mayor shall exclude the current surtax imposed by this section and the portion of the presumptive wholesale and retail markup imposed by Chapter 45A of Title 28 of the District of Columbia Official Code on the current surtax. The Mayor shall provide notice of any change in the amount of the surtax on or before September 1st of that year, and the change shall be effective as of the following October 1st.

(b) Cigarettes on which the taxes levied and imposed by this section have been paid shall not be subject to additional taxation under this section; provided, that the burden of proof that the taxes levied and imposed by this section have been paid shall be upon the person who sells or possesses cigarettes in the District, against whom a tax assessment has been made, who has submitted an application for a refund, or whose cigarettes have been seized. For the purposes of this section, the term "person" includes any officer or employee of a corporation responsible for payment of the tax, or any member of a partnership or association responsible for the payment of the tax.

(c) The tax levied and imposed by this section shall be paid by the affixture of stamps, purchased from the Mayor, evidencing the payment of the amount of tax imposed by this section. Such stamps shall be affixed to the original packages of cigarettes included in the directory of Tobacco Product Manufacturers maintained pursuant to § 7-1803.03(b) and shall be cancelled in the manner prescribed by the Mayor.

(d) Except as otherwise provided in this subsection and subsection (f) of this section, each licensed wholesaler shall affix a stamp or stamps, evidencing the payment of the amount of tax imposed by this section, to each original package of cigarettes to be kept for sale, offered for sale, displayed for sale, or sold within the District. Such stamps shall be affixed to each original package of such cigarettes within 72 hours after the receipt of such cigarettes and prior to the sale of such cigarettes unless such cigarettes are exempt from taxation under the provisions of this chapter. Whenever any cigarettes are found in the place of business of a licensed wholesaler without the stamps affixed as herein provided, or not segregated or marked as having been received within the preceding 72 hours, or not segregated or marked as being held for sale outside of the limits of the District, or not segregated or marked as being held for sale to the United States or the District government, or any instrumentalities thereof, or not segregated or marked for other exempt purposes under this chapter, a prima facie presumption shall arise that such cigarettes are subject to the tax levied and imposed by this section and are possessed in violation of the provisions of this chapter.

(e) Licensed retailers and vending machine operators shall not accept deliveries of unstamped or improperly stamped cigarettes. Such licensees shall examine all packages of cigarettes immediately upon their receipt and shall immediately return any and all unstamped or improperly stamped cigarettes to the licensed wholesaler. Unless substantial evidence to the contrary is shown, the possession of any unstamped or improperly stamped cigarettes by

such licensees shall be prima facie evidence that such cigarettes are possessed in violation of the provisions of this chapter. The Mayor may, however, authorize licensed retailers and vending machine operators to acquire and have in their possession cigarettes bearing cigarette tax stamps issued by any other state or jurisdiction; provided, that such cigarettes are intended for sale in such other state or jurisdiction. Licensed retailers and vending machine operators shall not purchase, acquire, or have in their possession District tax stamps. Notwithstanding the provisions of this subsection, licensed retailers or vending machine operators, other than licensed retailers or vending machine operators who are also licensed wholesalers, who either have in their possession unused cigarette tax stamps or unstamped cigarettes on the effective date of this chapter shall not be deemed in violation of this subsection; provided, that such licensed retailers and vending machine operators affix or redeem such unused cigarette tax stamps and pay the tax levied and imposed by this section on such unstamped cigarettes in the manner and within the time specified by the Mayor.

(f) On sales of cigarettes to other licensed wholesalers, a licensed wholesaler may deliver such cigarettes without affixing stamps thereon, and such other licensed wholesalers shall be liable for the tax imposed by this section on such cigarettes.

(g) All packages of cigarettes placed in cigarette vending machines shall be placed in such manner that the District cigarette tax stamps are visible whenever the packages are within that area of the vending machine which permits visibility of the packages.

(h) Except as authorized by this section or § 47-2403, no person shall willfully or knowingly sell, transfer, buy, receive, have in his possession, or offer to sell, transfer, buy, or receive any unstamped or improperly stamped cigarettes.

(i) No person shall sell, transfer, or offer to sell or transfer any cigarette tax stamps to any person other than the Mayor; nor shall any person buy, receive or offer to buy or receive any cigarette tax stamps from any person other than the Mayor.

(j) The Mayor may by regulation provide for the purchase of stamps at a discount not exceeding 10% of the face value of such stamps.

(k) The taxes imposed under this section shall be deemed to be a part of the selling price of cigarettes and shall be in addition to, and not in lieu of, any taxes imposed by any other law.

(May 27, 1949, 63 Stat. 137, ch. 146, title VI, § 603; May 18, 1954, 68 Stat. 115, ch. 218, title IX, § 901; Sept. 30, 1966, 80 Stat. 856, Pub. L. 89-610, title IV, § 401; Oct. 31, 1969, 83 Stat. 173, Pub. L. 91-106, title III, § 301; Oct. 21, 1972, 86 Stat. 1015, Pub. L. 92-518, title III, § 302(a); Oct. 21, 1975, D.C. Law 1-23, title IV, § 401(a), 22 DCR 2103; June 15, 1976, D.C. Law 1-70, title V, § 501, 23 DCR 546; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; Sept. 10, 1985, D.C. Law 6-33, § 2(a), 32 DCR 3774; Feb. 28, 1987, D.C. Law 6-198, § 2(a), 34 DCR 515; Aug. 17, 1991, D.C. Law 9-31, § 2(a), 38 DCR 4218; Sept. 10, 1992, D.C. Law 9-145, § 109(a), 39 DCR 4895; Sept. 30, 1993, D.C. Law 10-25,



§ 113(a), 40 DCR 5489; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 5, 2003, D.C. Law 14-307, § 902(c), 49 DCR 11664; Aug. 16, 2008, D.C. Law 17-219, §§ 5055(a), 7010, 55 DCR 7598; Mar. 3, 2010, D.C. Law 18-111, § 7241(i)(3), 57 DCR 181; Sept. 14, 2011, D.C. Law 19-21, § 8052(b), 58 DCR)

**Cross references.** — Tax rates, records and surplus funds, authority of Council to change certain tax rates, see § 47-504.

**Section references.** — This section is referred to in §§ 47-2403, 47-2405, and 47-2409.

**Prior Codifications.** — 1981 Ed., § 47-2402.

1973 Ed., § 47-2802.

**Effect of amendments.** — D.C. Law 14-307, in subsec. (a), substituted “\$.05” for “3.25 cents”.

D.C. Law 17-219, in subsec. (a), substituted “\$.10 for each cigarette” for “\$.05 for each cigarette”; and, in subsec. (c), rewrote the second sentence, which had read as follows: “Such stamps shall be affixed to the original packages of cigarettes and shall be cancelled, in the manner prescribed by the Mayor.”

D.C. Law 18-111, in subsec. (a), substituted “\$.125” for “\$.10”.

D.C. Law 19-21 rewrote subsec. (a), which had read as follows: “(a) Except as otherwise provided in § 47-2403, a tax is levied and imposed on the sale or possession of all cigarettes in the District of Columbia at the rate of \$.125 for each cigarette.”

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 114(a) of Omnibus Budget Support Temporary Act of 1991 (D.C. Law 9-19, August 17, 1991, law notification 38 DCR 5786).

For temporary (225 day) amendment of section, see § 109(a) of Omnibus Budget Support Temporary Act of 1992 (D.C. Law 9-134, July 23, 1992, law notification 39 DCR 5815).

For temporary (225 day) amendment of section, see § 113(a) of Omnibus Budget Support Temporary Act of 1993 (D.C. Law 10-11, August 6, 1993, law notification 40 DCR 6213).

Section 2 of D.C. Law 17-18 amended the second sentence of subsec. (c) to read as follows: “Such stamps shall be affixed to the original packages of cigarettes included in the directory of Tobacco Product Manufacturers maintained pursuant to § 7-1803.03(b) and shall be cancelled in the manner prescribed by the Mayor.”

Section 4(b) of D.C. Law 17-18 provided that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 17-192, in subsec. (c), amended the second sentence to read as follows: “Such stamps shall be affixed to the original packages of cigarettes included in the directory of Tobacco Product Manufacturers maintained pursuant to § 7-1803.03(b) and

shall be cancelled in the manner prescribed by the Mayor.”

Section 4(b) of D.C. Law 17-192 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 902(c) and 903 of Fiscal Year 2003 Budget Support Amendment Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) amendment of section, see §§ 902(c) and 903 of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of section, see §§ 902(c) and 903 of Fiscal Year 2003 Budget Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

For temporary (90 day) amendment of section, see § 2 of the Cigarette Stamp Clarification Emergency Amendment Act of 2007 (D.C. Act 17-47, May 15, 2007, 54 DCR 5356).

For temporary (90 day) amendment of section, see § 2 of Cigarette Stamp Clarification Emergency Amendment Act of 2008 (D.C. Act 17-366, May 5, 2008, 55 DCR 5689).

For temporary (90 day) amendment of section, see § 7111(h) of Fiscal Year 2010 Budget Support Emergency Act of 2009 (D.C. Act 18-187, August 26, 2009, 56 DCR 7374).

For temporary (90 day) additions, see § 7121(b) of Fiscal Year 2010 Budget Support Emergency Act of 2009 (D.C. Act 18-187, August 26, 2009, 56 DCR 7374).

For temporary (90 day) amendment of section, see § 7241(i)(3) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2(a), (b)(3) of Tobacco Excise Tax Emergency Amendment Act of 2009 (D.C. Act 18-214, October 21, 2009, 56 DCR 8496).

For temporary (90 day) addition, see § 2(b)(4) of Tobacco Excise Tax Emergency Amendment Act of 2009 (D.C. Act 18-214, October 21, 2009, 56 DCR 8496).

For temporary (90 day) amendment of section, see § 7241(i)(3) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 1-70.** — Law 1-70, the “Revenue Act of 1976,” was introduced in Council and assigned Bill No. 1-229, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings and reconsiderations of final reading on February 20, 1976, March 11, 1976 and April 6, 1976, respectively. Signed by the Mayor on April 20, 1976, it was assigned Act No. 1-106 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 4-71.** — For legislative history of D.C. Law 4-71, see Historical and Statutory Notes following § 47-2401.

**Legislative history of Law 6-33.** — Law 6-33, the “Cigarette Tax Amendment Act of 1985,” was introduced in Council and assigned Bill No. 6-188, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 28, 1985 and June 11, 1985, respectively. Signed by the Mayor on June 14, 1985, it was assigned Act No. 6-48 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 6-198.** — For legislative history of D.C. Law 6-198, see Historical and Statutory Notes following § 47-2418.

**Legislative history of Law 9-31.** — Law 9-31, the “Cigarette Tax Amendment Act of 1991,” was introduced in Council and assigned Bill No. 9-164, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 4, 1991, and June 18, 1991, respectively. Signed by the Mayor on July 2, 1991, it was assigned Act No. 9-58 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 9-134.** — Law 9-134, the “Omnibus Budget Support Temporary Act of 1992,” was introduced in Council and assigned Bill No. 9-485. The Bill was adopted on first and second readings on April 7, 1992, and May 6, 1992, respectively. Approved without the signature of the Mayor on May 29, 1992, it was assigned Act No. 9-219 and transmitted to both Houses of Congress for its review. D.C. Law 9-134 became effective on July 23, 1992.

**Legislative history of Law 9-145.** — Law 9-145, the “Omnibus Budget Support Act of

1992,” was introduced in Council and assigned Bill No. 9-222, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 12, 1992, and June 2, 1992, respectively. Approved without the signature of the Mayor on June 22, 1992, it was assigned Act No. 9-225 and transmitted to both Houses of Congress for its review. D.C. Law 9-145 became effective on September 10, 1992.

**Legislative history of Law 10-25.** — Law 10-25, the “Omnibus Budget Support Act of 1993,” was introduced in Council and assigned Bill No. 10-165, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 1, 1993, and June 29, 1993, respectively. Signed by the Mayor on July 16, 1993, it was assigned Act No. 10-57 and transmitted to both Houses of Congress for its review. D.C. Law 10-25 became effective on September 30, 1993.

**Legislative history of Law 14-307.** — For Law 14-307, see notes following § 47-903.

**Legislative history of Law 17-219.** — For Law 17-219, see notes following § 47-318.05a.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-305.02.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 47-305.02.

**Short title.** — Short title: Section 7009 of D.C. Law 17-219 provided that subtitle E of title VII of the act may be cited as the “Cigarette Stamp Clarification Act of 2008”.

**Effective date.** — Section 3(b) of D.C. Law 6-33 provided that the provisions of the act shall not operate before the 1st day of the 1st month which begins more than 30 days after September 10, 1985.

**Editor’s notes.** — Mayor to report fiscal impact of Law 10-25: Section 113(c) of D.C. Law 10-25 provided that the Mayor shall report to the Council within 6 months of implementation on the fiscal impact of this section.

Section 903 of D.C. Law 14-307 provided: “Sec. 903. Applicability. Section 902 shall apply as of January 1, 2003.”

Section 5005(a)(2) of D.C. Law 17-219 provided that this subsection shall apply as of October 1, 2008.

## § 47-2402.01. Weight-based excise tax.

(a) In addition to the 12% gross sales tax imposed pursuant to § 47-2002(6), a tax of \$0.75 per ounce and a proportionate tax at the same rate on all fractional parts of an ounce shall be imposed on the possession of other tobacco products as that term is defined in § 47-2001(v-1). All funds generated pursuant to this subparagraph shall be deposited in the Community Health Care Financing Fund, established by [§ 7-1931(a)].

(b)(1) On or before the 21st day of each calendar quarter, every person upon



whom the weight-based excise tax is imposed under the provisions of this chapter, during the preceding calendar quarter, shall file a return with the Mayor. The return shall provide:

(A) The total amount of product subject to tax for the quarter for which the return is filed;

(B) The amount of tax for which the person is liable; and

(C) Any other information as the Mayor considers necessary for the computation and collection of the tax.

(c) The Mayor may permit or require the returns to be made for other periods and upon other dates as he may specify.

(d) The form of returns shall be prescribed by the Mayor and shall contain such information as the Mayor may consider necessary for the proper administration of this chapter.

(Mar. 3, 2010, D.C. Law 18-111, § 7241(i)(4), 57 DCR 181.)

**Emergency legislation.** — For temporary (90 day) addition, see § 7241(i)(4) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see § 7241(i)(4) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act

of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-305.02.

**Editor's notes.** — Section 7241(i)(5) of D.C. Law 18-111 provided: "(5) This subsection shall apply to tax periods beginning after December 31, 2009."

## § 47-2403. Exemptions.

(a) Sale or possession of cigarettes in the District under the following circumstances shall be exempt from the tax levied and imposed by § 47-2402:

(1) Sales of cigarettes to or by the United States or the District government, or any instrumentalities thereof; possession of cigarettes lawfully purchased from such governmental entities by persons legally entitled to purchase or receive such cigarettes; and transfers, without consideration, of cigarettes lawfully purchased from such governmental entities by persons legally entitled to purchase or receive such cigarettes to other persons legally entitled to purchase or receive such cigarettes from such governmental entities;

(2) [Repealed];

(3) Possession of cigarettes by licensed wholesalers for sale outside of the limits of the District or for sale to other licensed wholesalers as provided for in § 47-2402(f); sales of cigarettes by licensed wholesalers to other licensed wholesalers as provided for in § 47-2402(f); and possession by authorized licensed retailers and vending machine operators of cigarettes bearing cigarette tax stamps issued by any other state or jurisdiction for sale in such other state or jurisdiction; provided, that such authorized licensed retailers and vending machine operators are licensed under the laws of such other state or jurisdiction to engage in the business of selling cigarettes therein;

(4) Possession by a consumer of 200 or fewer cigarettes, which do not bear proper evidence of the payment of the tax levied and imposed by § 47-2402, transported into the District by a consumer or manufactured in the District by

a consumer; transfers, without consideration, of such cigarettes from 1 consumer to another consumer; and

(5) Possession of cigarettes while being transported under such conditions that they are not deemed contraband under the provisions of § 47-2405.

(b) The burden of proof that any cigarettes are exempt from taxation under this chapter shall be upon the person who sells or possesses such cigarettes.

(May 27, 1949, 63 Stat. 138, ch. 146, title VI, § 604; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; Sept. 10, 1985, D.C. Law 6-33, § 2(b), 32 DCR 3774; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Section references.** — This section is referred to in § 47-2402.

**Prior Codifications.** — 1981 Ed., § 47-2403.

1973 Ed., § 47-2803.

**Legislative history of Law 4-71.** — For legislative history of D.C. Law 4-71, see Historical and Statutory Notes following § 47-2401.

**Legislative history of Law 6-33.** — For legislative history of D.C. Law 6-33, see Historical and Statutory Notes following § 47-2402.

**Effective date.** — Section 3(b) of D.C. Law 6-33 provided that the provisions of the act shall not operate before the 1st day of the 1st month which begins more than 30 days after September 10, 1985.

## § 47-2404. Licenses.

(a) No person shall manufacture for sale, keep for sale, offer for sale, display for sale in vending machines, or sell cigarettes or other tobacco product in the District without having first obtained a license or licenses for such purpose or purposes from the Mayor.

(b) The Mayor may issue the following types of licenses, upon the filing of an application as prescribed by the Mayor:

(1) *Wholesaler's licenses.* — A wholesaler's license shall authorize the licensee to manufacture, purchase, or otherwise acquire cigarettes or other tobacco product and to keep for sale, offer for sale, and sell such cigarettes or other tobacco product in original packages to consumers, to persons holding a license under this chapter as a wholesaler, retailer, or vending machine operator, and to persons for resale in other states or jurisdictions; provided, that with respect to sales made to persons for resale in other states or jurisdictions, such persons must be licensed under the laws of such other state or jurisdiction to engage in the business of selling cigarettes or other tobacco product therein. A wholesaler's license shall authorize the licensee to manufacture, keep for sale, offer for sale, and sell cigarettes or other tobacco product only at the place or places designated therein. Except as provided by the Mayor by regulation, a separate license shall be required for each place where cigarettes or other tobacco product are to be manufactured, kept for sale, offered for sale, or sold. The Mayor may provide, by regulation, for the issuance of a wholesaler's license for a place located outside of the District. The annual fee for a wholesaler's license shall be \$50 for each place designated therein.

(2) *Retailer's licenses.* — A retailer's license shall authorize the licensee to keep for sale, offer for sale, and sell cigarettes or other tobacco product to consumers in original packages from the place or places designated therein. A retailer's license shall not authorize the licensee to sell cigarettes or other tobacco product to other licensees for resale. Except as provided by the Mayor



by regulation, a separate license shall be required for each retail establishment. The annual fee for a retailer's license shall be \$15 for each retail establishment.

(3) Vending machine operator's licenses restricted.

(A) No license shall be issued for the sale of cigarettes or other tobacco product in an original package from or by means of a vending machine, except in the case of a tavern or nightclub licensed pursuant to § 25-113, an establishment that restricts admittance to persons 18 years of age or older, or a restaurant licensed pursuant to § 25-113.

(B) Any cigarette vending machine that is located in a tavern, nightclub, establishment, or restaurant in accordance with subparagraph (A) of this paragraph shall be located in an area that is in the immediate vicinity, plain view, and control of a responsible employee, so that any tobacco purchase is readily observable by an employee. The cigarette vending machine shall not be located in a similar unmonitored area.

(C) The annual fee for a vending machine operator's license shall be \$15 for each vending machine.

(D) Any cigarette or other tobacco product vending machine that is located in a tavern, nightclub, establishment, or restaurant in accordance with subparagraph (A) of this paragraph shall display the warning sign required by § 22-1320(e)(1).

(E) Any cigarette or other tobacco product vending machine that is located in a tavern, nightclub, establishment, or restaurant in accordance with subparagraph (A) of this paragraph shall not contain any non-tobacco product, other than matches.

(c) The Mayor shall keep a complete record of applications made for licenses under this section and of the actions taken thereon.

(d) The Mayor may, by regulation, adjust the license fees imposed by subsection (b) of this section and may establish fees for duplicate licenses.

(e) Licenses issued under this section shall remain in effect for such periods of time as may be prescribed by the Mayor by regulation, not exceeding 1 year from the effective date of such licenses, or until such licenses are suspended or revoked by the Mayor under subsection (f) of this section.

(f) The Mayor may, after a hearing, suspend or revoke any license issued under this section for any violation of this chapter or of the regulations promulgated under this chapter.

(g) The licenses required by this section shall be in addition to the licenses required by any other law or regulation.

(h) The Mayor may suspend any license issued under this section to any person convicted of a first or second violation of § 22-1320. The Mayor shall revoke the license for a third or subsequent violation.

(i) Any license issued pursuant to this chapter shall be issued as a General Sales endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of Chapter 28 of this title.

(May 27, 1949, 63 Stat. 138, ch. 146, title VI, § 605; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; May 2, 1991, D.C. Law 8-262, § 4(b), 37 DCR 8434;

enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(3), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(1), 50 DCR 6913; July 23, 2010, D.C. Law 18-189, § 4(b), 57 DCR)

**Cross references.** — Furnishing tobacco products to minors, license suspension, see § 22-1320.

**Section references.** — This section is referred to in §§ 7-1803.02, 7-1803.06, 47-2409 and 47-2418.

**Prior Codifications.** — 1981 Ed., § 47-2404.

1973 Ed., § 47-2804.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (i), substituted “General Sales endorsement to a basic business license under the basic” for “Class B General Sales endorsement to a master business license under the master”.

D.C. Law 18-189 substituted “cigarettes or other tobacco product” for “cigarettes”; and added subsecs. (b)(3)(D) and (E).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(hh)(1) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 4-71.** — For legislative history of D.C. Law 4-71, see Historical and Statutory Notes following § 47-2401.

**Legislative history of Law 8-262.** — For legislative history of D.C. Law 8-262, see Historical and Statutory Notes following § 47-2401.

**Legislative history of Law 12-261.** — Law 12-261, the “Second Omnibus Regulatory Re-

form Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

**Legislative history of Law 15-38.** — Law 15-38, the “Streamlining Regulation Act of 2003”, was introduced in Council and assigned Bill No. 15-19, which was referred to Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 3, 2003, and July 8, 2003, respectively. Signed by the Mayor on August 11, 2003, it was assigned Act No. 15-146 and transmitted to both Houses of Congress for its review. D.C. Law 15-38 became effective on October 28, 2003.

**Legislative history of Law 18-189.** — For Law 18-189, see notes following § 47-2401.

**References in text.** — Section 25-111, referred to in subsection (b)(3)(A) of this section, is part of Title 25, D.C. Code, which title was amended and enacted by D.C. Law 13-298, effective May 3, 2001. For disposition of the subject matter of former Title 25, see the Disposition Table preceding § 25-101.

## § 47-2405. Transportation of cigarettes.

(a) Any person, other than a consumer, who transports cigarettes not bearing District cigarette tax stamps over the public highways, roads, streets, waterways, or other public space of the District, shall have in his actual possession invoices or delivery tickets for such cigarettes, which show the true name and address of the consignor or seller, the true name and address of the consignee or purchaser, and the quantity and brands of the cigarettes so transported.

(b) If the cigarettes are consigned to or purchased by any person in the District, such purchaser or consignee must be a person authorized by this chapter to possess unstamped cigarettes in the District. If the invoice or delivery ticket specifies that the cigarettes are to be delivered to any person in any state or jurisdiction other than the District, such person must be licensed under the laws of such other state or jurisdiction to engage in the business of selling cigarettes therein. Any cigarettes transported in violation of any of the provisions of this section shall be deemed contraband cigarettes and such cigarettes, the conveyance in which such cigarettes are being transported, and any equipment or devices used in connection with, or to facilitate, the



transportation of such cigarettes shall be subject to seizure and forfeiture as provided for in § 47-2409.

(c) Any person who transports cigarettes in violation of this section shall, upon conviction thereof, be fined not more than \$25 for each 200 contraband cigarettes or fraction thereof so transported by him, or by imprisonment for not more than 3 years, or both, and in addition, shall be liable for the tax imposed by § 47-2402 and the interest and penalties imposed by §§ 47-4201.01 [§ 47-4201] and subchapter II of Chapter 42 of this title.

(May 27, 1949, 63 Stat. 138, ch. 146, title VI, § 606; Sept. 14, 1976, D.C. Law 1-82, title I, § 105, 23 DCR 2461; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(qq), 48 DCR 334.)

**Section references.** — This section is referred to in §§ 7-1803.06, 47-2403, 47-2409, and 47-2422.

**Prior Codifications.** — 1981 Ed., § 47-2405.

1973 Ed., § 47-2805.

**Effect of amendments.** — D.C. Law 13-305, in subsec. (c), substituted “§§ 47-4201.01 and subchapter II of Chapter 42 of this title” for “§ 47-2411.01”.

**Legislative history of Law 4-71.** — For legislative history of D.C. Law 4-71, see Historical and Statutory Notes following § 47-2401.

**Legislative history of Law 1-82.** — Law 1-82, the “License Fees and Charges Act of 1976,” was introduced in Council and assigned Bill No. 1-237, which was referred to the Com-

mittee on Finance and Revenue. The Bill was adopted on first and second readings on March 23, 1976 and April 6, 1976, respectively. Signed by the Mayor on June 22, 1976, it was assigned Act No. 1-135 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor’s notes.** — Office of Collector of Taxes abolished: See Historical and Statutory Notes following § 47-401.

Section 410(d) of D.C. Law 13-305 provided: “Section 406(a), (c), (j), (m), (p), (q), (s), (w), (bb), (dd), (ee), (hh) through (kk), (mm) through (oo), (qq) through (uu), (yy), (zz), (bbb), (ddd), and (fff) shall apply for all tax years or taxable periods beginning after December 31, 2000.”

## § 47-2406. Offenses relating to stamps.

(a) No person shall, with intent to defraud, alter, forge, make, or counterfeit any stamps authorized by the Mayor under this chapter; or procure or cause to be altered, forged, made, or counterfeited any such stamps; or sell, transfer, buy, receive, have in his possession, or offer to sell, transfer, buy, or receive any such altered, forged, or counterfeited stamps; or make, use, sell, transfer, buy, receive, have in his possession, or procure or cause to be made or used any equipment or material in imitation of the equipment or material used in the manufacture of such stamps.

(b) No person shall, with intent to defraud, cut, tear, or remove from any package of cigarettes, any stamp authorized by the Mayor under this chapter; or procure or cause to be cut, torn, or removed any such stamp; or sell, transfer, buy, receive, have in his possession, or offer to sell, transfer, buy, or receive any cut, torn, or removed stamp.

(c) No person shall, with intent to defraud, alter the cancellation of or otherwise prepare, or cause to be altered or otherwise prepared, any stamp which has already been used for the payment of the tax imposed by this chapter; or sell, transfer, buy, receive, have in his possession, or offer to sell, transfer, buy, or receive any such washed or restored stamp.

(d) No person shall, with intent to defraud, affix to any package of cigarettes, redeem, attempt to affix or redeem, or cause to be affixed or redeemed:

(1) Any stamp which has been cut, torn, or removed from any package of cigarettes;

(2) Any altered, forged, or counterfeited stamp; or

(3) Any washed or restored stamp.

(e) No person shall willfully sell, transfer, buy, receive, have in his possession, or offer to sell, transfer, buy, or receive any package of cigarettes to which is affixed a stamp described in subsection (d) of this section.

(f) Any person who violates any provision of this section shall, upon conviction thereof, be fined not more than \$10,000 or imprisoned for not more than 5 years, or both.

(May 27, 1949, 63 Stat. 139, ch. 146, title VI, § 607; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Administrative procedure, generally, see § 2-501 et seq.

**Section references.** — This section is referred to in § 47-2409.

**Prior Codifications.** — 1981 Ed., § 47-2406.

1973 Ed., § 47-2806.

**Legislative history of Law 4-71.** — For legislative history of D.C. Law 4-71, see Historical and Statutory Notes following § 47-2401.

## § 47-2407. Redemption of stamps.

(a) The Mayor may, upon receipt of satisfactory evidence of the facts, redeem any stamps, issued under this chapter, which have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use. Such redemption may be made either by allowing the owner of such stamps a credit on the purchase of new stamps equal to the amount paid for the spoiled, destroyed, or useless stamps or by refunding such amount; provided, that no refund shall be made in those cases where the owner can be made whole by allowing a credit on the purchase of new stamps. No refund or allowance shall be made under this section unless the owner of such stamps has filed a written claim, under oath, for such refund or allowance with the Mayor within 6 months after the stamps were spoiled, destroyed, or rendered useless or unfit for the purposes intended, or, in the case of the stamps for which the owner has no use, within 6 months after the purchase of such stamps.

(b) No refund or allowance shall be made until:

(1) The stamps so spoiled, destroyed, or rendered useless or unfit, or for which the owner has no use have been returned to the Mayor, or satisfactory proof has been made to the Mayor showing which such stamps cannot be returned; and

(2) If required by the Mayor, the person making the claim for such refund or allowance has satisfactorily traced the history of the stamps from their issuance to the filing of his claim.

(c) Notwithstanding the time limitations specified in subsection (a) of this section for the redemption of stamps, a claim for the redemption of unused



stamps which are owned by licensed retailers or vending machine operators on the effective date of this chapter, other than stamps which were spoiled, destroyed, or rendered useless or unfit prior to the effective date of this chapter, shall be filed within 6 months after the effective date of this chapter. Stamps owned by licensed retailers and vending machine operators which were spoiled, destroyed, or rendered useless or unfit prior to the effective date of this chapter shall be subject to the time limitation for the redemption of such stamps specified in subsection (a) of this section. If the Mayor authorizes the continued affixation of stamps after the effective date of this chapter, which stamps were purchased by licensed retailers and vending machine operators prior to the effective date of this chapter, a claim for the redemption of such stamps shall be filed within the time prescribed by the Mayor.

(May 27, 1949, 63 Stat. 139, ch. 146, title VI, § 608; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2407.

1973 Ed., § 47-2807.

**Legislative history of Law 4-71.** — For legislative history of D.C. Law 4-71, see Historical and Statutory Notes following § 47-2401.

## § 47-2408. Records; reports; returns.

(a) The Mayor may require licensed wholesalers, retailers, vending machine operators, and every other person liable for or exempt from the tax imposed by this chapter or otherwise subject to the provisions of this chapter or the regulations issued by the Mayor pursuant to this chapter, to keep, maintain, and preserve records, books, and other documents; to file reports, statements, and returns; and to comply with such regulations relating thereto as the Mayor may prescribe. The Mayor may require that any reports, statements, or returns be verified by oath. The records, books, and other documents which the Mayor requires to be kept, maintained, and preserved shall be made available for examination and copying by the Mayor at the place or places prescribed by him at the time specified in subsection (b) of this section.

(b) For purposes of ascertaining the correctness of any report, statement, or return; making a report, statement, or return where a complete and accurate report, statement, or return has not been filed; determining that all taxes due under this chapter have been properly paid; and determining compliance with the provisions of this chapter and the regulations issued hereunder, the Mayor may:

(1) Examine and copy any records, books, or other documents which may be relevant to such inquiry;

(2) Summon any person to appear before him at the time and place specified in the summons and produce such records, books, or other documents and give such testimony and answer such interrogatories, under oath, as may be relevant to such inquiry;

(3) Upon presenting appropriate credentials to the owner, operator, or agent in charge, enter any building or place during the usual business hours or any other time when such building or place is open:

(A) Where required records, books, or other documents are kept, maintained, or preserved for purposes of examining and copying such records, books, or other documents; and

(B) Where cigarettes are manufactured, kept for sale, offered for sale, or sold by a licensed wholesaler, retailer, or vending machine operator; and

(4) Stop any conveyance that the Mayor has knowledge or reasonable cause to believe is carrying more than 200 cigarettes and, upon presenting appropriate credentials to the operator thereof, examine the invoices or delivery tickets for such cigarettes and inspect the conveyance for contraband cigarettes.

(c) Any owner, operator, or agent in charge of any building or place where required records, books, or other documents are kept, maintained, or preserved or where cigarettes are manufactured, kept for sale, offered for sale, or sold by a licensed wholesaler, retailer, or vending machine operator who refuses to permit the Mayor, acting under the authority of subsection (b)(3) of this section, to enter and examine such records, books, or other documents or to inspect such cigarettes, or who obstructs, impedes, or interferes with the Mayor while he is engaged in the performance of his official duties under subsection (b)(3) of this section shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned for not more than 1 year, or both.

(d) Any person who, having been summoned, neglects or refuses to obey the summons issued as herein provided, shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned for not more than 1 year, or both. If any person, having been summoned, neglects or refuses to obey the summons issued as herein provided, the Mayor may report that fact to the Superior Court of the District of Columbia, or 1 of the judges thereof, and that Court, or any judge thereof, is empowered to compel obedience of such summons to the same extent and under the same penalties as witnesses may be compelled to obey the subpoenas of that Court. Any failure to obey the order of the Court may be punished by the Court as a contempt thereof.

(e) No person shall willfully file an application for a license, permit, authorization, or refund; request for revision or abatement; claim for refund or allowance; or report, statement, or return; or keep or maintain any records, books, or other documents which are known to him to be false or fraudulent as to any material matter. No person shall willfully aid or assist in, or procure, counsel, or advise, the preparation, filing, or keeping of any applications, requests, claims, reports, statements, returns, records, books, or other documents which are false or fraudulent as to any material matter.

(f) Any person required to file any report, statement, or return or to keep, maintain, and preserve any records, books, or other documents, who fails to file a complete and accurate report, statement, or return on or before the date that such report, statement, or return is due (determined with regard to any extension of time for filing granted by the Mayor) or who fails to keep, maintain, and preserve complete and accurate records, books, or other documents, unless it is shown by such person that such failure is due to reasonable cause and not to neglect, shall pay a penalty of \$10 for each day during which such failure continues. The provisions of §§ 47-412 [repealed] and 47-413



[repealed] shall be applicable to the tax imposed by this chapter, but the period of limitations upon assessment and collections shall be determined by § 47-4301.

(g) If any person required to keep, maintain, and preserve any records, books, or other documents relating to exempt sales or possessions of cigarettes fails to keep, maintain, and preserve complete and accurate records, books, or other documents relating thereto, such sales and possessions shall, unless it is shown by such person that failure is due to reasonable cause and not to neglect, be deemed taxable sales and possessions.

(h) The Mayor may, upon written application made before the date prescribed for filing any report, statement, or return, grant a reasonable extension of time for filing the report, statement or return required by this chapter, whenever good cause exists for such extension.

(May 27, 1949, 63 Stat. 139, ch. 146, title VI, § 609; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(rr), 48 DCR 334.)

**Cross references.** — Tax rates, records and surplus funds, authority of Council to change certain tax rates, see § 47-504.

**Prior Codifications.** — 1981 Ed., § 47-2408.

1973 Ed., § 47-2808.

**Effect of amendments.** — D.C. Law 13-305, in the second sentence of subsec. (f), substituted “this chapter, but the period of limitations upon assessment and collections shall be determined by § 47-4301” for “this chapter”.

**Legislative history of Law 4-71.** — For

legislative history of D.C. Law 4-71, see Historical and Statutory Notes following § 47-2401.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor’s notes.** — Section 410(d) of D.C. Law 13-305 provided: “Section 406(a), (c), (j), (m), (p), (q), (s), (w), (bb), (dd), (ee), (hh) through (kk), (mm) through (oo), (qq) through (uu), (yy), (zz), (bbb), (ddd), and (fff) shall apply for all tax years or taxable periods beginning after December 31, 2000.”

## § 47-2409. Seizure and forfeiture of property.

(a) The following shall be subject to seizure by the Mayor or any law enforcement officer of the District and to forfeiture to the District:

(1) All cigarettes or other tobacco product found in any place in the District at such times and under such circumstances that the taxes levied and imposed by this chapter should have been paid and on which such taxes have not been paid as required by this chapter or which do not bear proper evidence that such taxes have been paid;

(2) All cigarettes or other tobacco product, conveyances, and equipment or devices subject to seizure and forfeiture under § 47-2405;

(3) All cigarettes or other tobacco product manufactured for sale, kept for sale, offered for sale, displayed for sale, or sold in violation of § 47-2404 or the terms and conditions of a license issued under such section and all money collected in connection with the sale of such cigarettes or other tobacco product;

(4) All unstamped or improperly stamped cigarettes or other tobacco product possessed or sold by licensed retailers or vending machine operators in violation of § 47-2402(e);

(5) All cigarette tax stamps possessed by licensed retailers and vending machine operators in violation of § 47-2402(e) or sold or transferred, or offered for sale or transfer, in violation of § 47-2402(i);

(6) All vending machines which are operated in violation of § 47-2404 or the terms and conditions of a license under such section or which contain cigarettes or other tobacco product described in paragraph (1) of this subsection, including all cigarettes or other tobacco product, whether described in paragraph (1) of this subsection or not, and money contained therein;

(7) All altered, forged, counterfeited, cut, torn, removed, prepared, washed, or restored stamps as described in § 47-2406; all cigarettes or other tobacco product to which such stamps are affixed and all materials and equipment used, or intended to be used, to manufacture or produce such stamps;

(8) All metering devices possessed with authorization from the Mayor and used or possessed in violation of the terms and conditions imposed by the Mayor;

(9) All raw materials or equipment of any kind which are used, or intended for use, in manufacturing or packaging cigarettes or other tobacco product in violation of this chapter;

(10) All property which is used, or intended for use, as a container for property described in paragraph (1), (3), (4), (5), or (7) of this subsection;

(11) All books or records used, or intended for use in violation of this chapter;

(12) All money which has been used, or is intended for use, in violation of this chapter; and

(13) All conveyances, including aircraft, vehicles, or vessels, or any other property which are used to transport or conceal, or intended for use in transporting or concealing, or in any manner used to facilitate the transportation or concealment of, property described in paragraphs (1), (3), (4), (7), and (9) of this subsection.

(b) The following conveyances shall not be subject to forfeiture under this section:

(1) A conveyance used by any person as a common carrier in the transaction of business as a common carrier, unless it appears that the owner or other person in charge of the conveyance was a consenting party, or privy to the violation of this chapter on account of which the conveyance was seized; or

(2) A conveyance that is subject to seizure and forfeiture under this section by reason of any act committed, or omission established by the owner thereof, to have been committed or omitted by any person other than such owner, while such conveyance was unlawfully in the possession of a person other than the owner, in violation of the criminal laws of the United States, the District, or any other state.

(c) All property which is seized under subsection (a) of this section shall be promptly delivered to the Mayor and placed under seal, or removed to a place designated by the Mayor. Such property shall be proceeded against in the Superior Court of the District of Columbia by libel action brought in the name of the District of Columbia by the Attorney General for the District of Columbia or any of his assistants and shall, unless good cause be shown to the contrary, be forfeited to the District; provided, that such property shall not be subject to replevin, but is deemed to be in the custody of the Mayor subject only to the



orders, decrees, and judgments of the court having jurisdiction over the forfeiture proceedings, and; provided, further, that notwithstanding the provisions of this section, whenever such property is subject to seizure and forfeiture on account of failure to comply with the provisions of this chapter and the Mayor determines that such failure was excusable, the Mayor may return the property to the owner or owners thereof. Whenever the Mayor determines that any property seized under subsection (a) of this section is liable to perish or become greatly reduced in price or value by keeping such property until the completion of forfeiture proceedings, the Mayor may:

(1) Appraise the property and return the property to the owner thereof upon the owner paying any tax due under this chapter and giving satisfactory bond in an amount equal to the appraised value to abide the final order, decree, or judgment of the court having jurisdiction over the forfeiture proceedings, and to pay the amount of such appraised value to the Mayor as may be ordered and directed by such court; or

(2) If the owner neglects or refuses to pay such tax and give such bond, sell such property in the manner provided by the Mayor by regulation, and the proceeds of the sale of such property, after deducting the reasonable costs of the seizure and sale, shall be paid to the court to abide its final order, decree, or judgment.

(d) After the final order, decree, or judgment is made, forfeited property shall be made available for the official use of any agency of the District government, disposed of by public auction, or otherwise disposed of as the Mayor may prescribe. If there is a bona fide prior lien against such forfeited property, the Mayor may (1) make payment of such lien and retain the property for official use, or (2) dispose of such property by public auction, and the proceeds of the sale of such property shall be made available, first, for the payment of any tax due under this chapter and all expenses incident to the seizure, forfeiture, and sale of such property, and, second, for the payment of such lien, and the remainder shall be deposited with the Treasurer of the District of Columbia; provided, that no payment of a lien shall be made where the lienor was a consenting party or privy to the violation of this chapter on account of which the property was seized and forfeited. To the extent necessary, liens against forfeited property shall, on good cause shown by the lienor, be transferred from the property to the proceeds of the sale of the property.

(e) Whenever any cigarettes or other tobacco product are found in any vending machine in violation of the provisions of § 47-2402(g), the Mayor shall seal the machine to prevent the sale or removal of any cigarettes or other tobacco product from the machine until such time as the violation is corrected in the presence of the Mayor. The operator of such vending machine shall, upon conviction thereof, be fined not more than \$1,000 or imprisoned for not more than 1 year, or both; provided, that if the vending machine contains cigarettes or other tobacco product described in paragraph (1) of subsection (a) of this section, the operator shall, in addition, be subject to the penalties imposed by the other provisions of this chapter. Any person, other than the Mayor, who removes or otherwise tampers with any seals placed on a vending machine by the Mayor shall be subject to the penalties imposed by § 47-2414 [repealed].

(f) Any person whose property has been seized and forfeited under this section shall not be relieved from any other penalty imposed by this chapter.

(May 27, 1949, 63 Stat. 139, ch. 146, title VI, § 610; Oct. 28, 1949, 63 Stat. 972, ch. 782, title XI, § 1106(a); Mar. 3, 1979, D.C. Law 2-139, § 3205(r), 25 DCR 5740; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 13, 2005, D.C. Law 15-354, § 73(i)(1), 52 DCR 2638; July 23, 2010, D.C. Law 18-189, § 4(c), 57 DCR 3019.)

**Cross references.** — Effective date provisions, see § 1-636.02.

Metropolitan police, Property Clerk, return of property to owner, property disposition, see § 5-119.06.

**Section references.** — This section is referred to in §§ 7-1803.06, 47-2405, and 47-

**Prior Codifications.** — 1981 Ed., § 47-2409.

1973 Ed., § 47-2809.

**Effect of amendments.** — D.C. Law 15-354 substituted “Attorney General for the District of Columbia” for “Corporation Counsel”.

D.C. Law 18-189 substituted “cigarettes or other tobacco product” for “cigarettes”; and added subsecs. (b)(3)(D) and (E).

**Legislative history of Law 2-139.** — Law

2-139, the “District of Columbia Government Comprehensive Merit Personnel Act of 1978,” was introduced in Council and assigned Bill No. 2-10, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on October 17, 1978 and October 31, 1978, respectively. Signed by the Mayor on November 22, 1978, it was assigned Act No. 2-300 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 4-71.** — For legislative history of D.C. Law 4-71, see Historical and Statutory Notes following § 47-2401.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

**Legislative history of Law 18-189.** — For Law 18-189, see notes following § 47-2401.

## CASE NOTES

### Construction and application.

Forfeiture is penal in nature and may be harsh remedy; accordingly, courts apply forfeiture statutes with care, strictly construing

their provisions. *District of Columbia v. 313 M St.*, 633 A.2d 820, 1993 D.C. App. LEXIS 292 (1993).

## § 47-2410. Deficiency in tax.

(a) The Mayor may determine, redetermine, assess, or reassess any tax due under this chapter. Assessments of any deficiencies in the tax due under this chapter, or any interest and penalties thereon, shall be governed by § 47-4312.

(b) Any assessment of tax, penalties, and interest that has become final pursuant to § 47-4312 shall be due and payable within 10 days after service of a final assessment by the Mayor or service of a final order by the Office of Administrative Hearings, as applicable.

(May 27, 1949, 63 Stat. 139, ch. 146, title VI, § 611; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, 581, Pub. L. 91-358, title I, §§ 155(a), 161(d)(1); Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; Oct. 5, 1985, D.C. Law 6-42, § 443, 32 DCR 4450; Mar. 8, 1991, D.C. Law 8-237, § 2(q), 38 DCR 314; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Dec. 7, 2004, D.C. Law 15-217, § 4(e), 51 DCR 9126.)

**Section references.** — This section is referred to in § 47-2413.

**Prior Codifications.** — 1981 Ed., § 47-2410.

1973 Ed., § 47-2810.

**Effect of amendments.** — D.C. Law 15-217 rewrote subsecs. (a) and (b).

**Emergency legislation.** — For temporary



(90 day) amendment of section, see § 3(e) of Office of Administrative Hearings Establishment Emergency Amendment Act of 2004 (D.C. Act 15-513, August 2, 2004, 51 DCR 8976).

For temporary (90 day) amendment of section, see § 3(e) of Office of Administrative Hearings Establishment Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-553, October 26, 2004, 51 DCR 10359).

**Legislative history of Law 4-71.** — For legislative history of D.C. Law 4-71, see Historical and Statutory Notes following § 47-2401.

**Legislative history of Law 6-42.** — Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June

25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 8-237.** — Law 8-237, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 Technical and Clarifying Amendments Act of 1990," was introduced in Council and assigned Bill No. 8-203, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-320 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 15-217.** — For Law 15-217, see notes following § 47-1528.

## § 47-2411. Redemption of cigarette or alcoholic beverage tax stamps.

(a) Where any cigarette or alcoholic beverage tax stamps issued under District of Columbia tax laws have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use, the amount paid for such stamps may be refunded within the limit of appropriations therefor, or allowed as a credit on the purchase of new stamps. No such refund or allowance shall be made unless the owner of such stamps shall file a written claim therefor with the Mayor of the District of Columbia or his designated agent within the time prescribed in this section and unless the Mayor or his designated agent upon receipt of satisfactory evidence of the facts, and subject to regulations prescribed by the Council of the District of Columbia, certifies that such refund or allowance is just and equitable.

(b) No refund or allowance shall be made in any case (1) until the stamps so spoiled or rendered useless shall have been returned to the Mayor or his designated agent, (2) until satisfactory proof has been made to the Mayor or his designated agent showing the reason why the same cannot be returned, or (3) if so required by the Mayor or his designated agent, unless the person presenting the same can satisfactorily trace the history of said stamps from their issuance to the filing of his claim as aforesaid; provided, that no refund shall be made in those cases where the owner may be made whole by allowing him a credit on the purchase of new stamps, and provided further, that no claim for a refund, or allowance for such stamps, shall be allowed unless presented within 6 months after the stamps have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or, in the case of stamps for which the owner may have no use, within 6 months from the date of purchase thereof, except that as to stamps which have been spoiled, destroyed, or rendered useless or unfit for the purpose intended, or for which the owner may have no use, prior to June 3, 1954, a claim for a refund or allowance for credit may be filed within 6 months after June 3, 1954.

## § 47-2411.01

TAXATION, LICENSING, PERMITS, ETC.

(June 3, 1954, 68 Stat. 169, ch. 252, §§ 1, 2; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Alcoholic beverages, taxes erroneously or illegally collected, refunds, see § 25-909.

**Prior Codifications.** — 1981 Ed., § 47-2411.  
1973 Ed., § 47-2811.

## § 47-2411.01. Penalty; interest. [Repealed].

Repealed.

(May 27, 1949, 63 Stat. 139, ch. 146, title VI, § 612; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; Feb. 28, 1987, D.C. Law 6-209, § 406, 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406§§ (2), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-2411.1.

**Legislative history of Law 4-71.** — For legislative history of D.C. Law 4-71, see Historical and Statutory Notes following § 47-2401.

**Legislative history of Law 6-209.** — Law 6-209, the “Tax Amnesty Act of 1986,” was introduced in Council and assigned Bill No. 6-398, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 25, 1986 and December 16, 1986 respectively. Signed by the Mayor on January 8, 1987, it was assigned Act No. 6-269 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Effective date.** — Section 601(b) of D.C. Law 6-209 provided that title III and sections 401, 402, 404, 405 and 406 of the act shall take effect on October 1, 1987.

**Editor’s notes.** — Section 410(d) of D.C. Law 13-305 provided: “Section 406(a), (c), (j), (m), (p), (q), (s), (w), (bb), (dd), (ee), (hh) through (kk), (mm) through (oo), (qq) through (uu), (yy), (zz), (bbb), (ddd), and (fff) shall apply for all tax years or taxable periods beginning after December 31, 2000.”

## § 47-2412. Refunds.

Where any tax, penalty, or interest has been erroneously or illegally collected by the Mayor, the tax, penalty, or interest shall be refunded if an application for such refund, under oath, is filed with the Office of Administrative Hearings within 1 year after the date of the payment of such tax. An application for a refund may be filed only by the person upon whom such tax, penalty, or interest was imposed and who has actually paid the tax, penalty, or interest. An application for a refund shall be deemed a request for revision or abatement of an assessment. Upon filing of a valid application for refund, the Office of Administrative Hearings shall either (1) grant the application, or (2) grant the applicant a hearing. After such hearing, the Office of Administrative Hearings shall make findings, grant or deny the application for a refund in accordance with such findings, and notify the applicant of the findings and decision of the Office of Administrative Hearings by regular mail. This section does not authorize the filing of a request for a hearing with respect to any tax, penalty, or interest that was, or could have been, at issue in any prior proceeding that was conducted by the Superior Court of the District of Columbia or the Office of Administrative Hearings.

(May 27, 1949, 63 Stat. 139, ch. 146, title VI, § 613; Mar. 10, 1982, D.C. Law



4-71, § 2, 28 DCR 5243; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Dec. 7, 2004, D.C. Law 15-217, § 4(f), 51 DCR 9126.)

**Prior Codifications.** — 1981 Ed., § 47-2412.

**Effect of amendments.** — D.C. Law 15-217 rewrote the section which had read as follows: “Where any tax, penalty, or interest has been erroneously or illegally collected by the Mayor, the tax, penalty, or interest shall be refunded if an application for such refund, under oath, is filed with the Mayor within 1 year after the date of the payment of such tax. An application for a refund may be filed only by the person upon whom such tax, penalty, or interest was imposed and who has actually paid the tax, penalty, or interest. An application for a refund shall be deemed a request for revision or abatement of an assessment. Upon filing of a valid application for refund, the Mayor shall either (1) grant the application, or (2) grant the applicant a hearing. After such hearing, the Mayor

shall make findings, grant or deny the application for a refund in accordance with such findings, and notify the applicant of the findings and decision of the Mayor by regular mail.”

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(f) of Office of Administrative Hearings Establishment Emergency Amendment Act of 2004 (D.C. Act 15-513, August 2, 2004, 51 DCR 8976).

For temporary (90 day) amendment of section, see § 3(f) of Office of Administrative Hearings Establishment Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-553, October 26, 2004, 51 DCR 10359).

**Legislative history of Law 4-71.** — For legislative history of D.C. Law 4-71, see Historical and Statutory Notes following § 47-2401.

**Legislative history of Law 15-217.** — For Law 15-217, see notes following § 47-1528.

## § 47-2413. Appeals.

Except as provided in § 47-4312, any person, (1) aggrieved by a final determination of tax, or (2) aggrieved by a denial of a claim for refund (other than a refund of tax finally determined under § 47-2410), may, within 6 months from the date of the final determination or from the date of denial of the claim for refund, appeal to the Superior Court of the District of Columbia in the same manner and to the same extent as set forth in §§ 47-3303, 47-3304, 47-3306, 47-3307, and 47-3308.

(May 27, 1949, 63 Stat. 139, ch. 146, title VI, § 614; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Dec. 7, 2004, D.C. Law 15-217, § 4(g), 51 DCR 9126.)

**Prior Codifications.** — 1981 Ed., § 47-2413.

**Effect of amendments.** — D.C. Law 15-217 substituted “Except as provided in § 47-4312, any” for “Any”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(g) of Office of Administrative Hearings Establishment Emergency Amendment Act of 2004 (D.C. Act 15-513, August 2, 2004, 51 DCR 8976).

For temporary (90 day) amendment of section, see § 3(g) of Office of Administrative Hearings Establishment Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-553, October 26, 2004, 51 DCR 10359).

**Legislative history of Law 4-71.** — For legislative history of D.C. Law 4-71, see Historical and Statutory Notes following § 47-2401.

**Legislative history of Law 15-217.** — For Law 15-217, see notes following § 47-1528.

## § 47-2414. Penalties. [Repealed].

Repealed.

(May 27, 1949, 63 Stat. 139, ch. 146, title VI, § 615; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; Mar. 8, 1991, D.C. Law 8-237, § 2(q), 38 DCR 314; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(tt)(2), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-2414.

**Legislative history of Law 4-71.** — For legislative history of D.C. Law 4-71, see Historical and Statutory Notes following § 47-2401.

**Legislative history of Law 8-237.** — For legislative history of D.C. Law 8-237, see Historical and Statutory Notes following § 47-2410.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor's notes.** — Section 410(d) of D.C. Law 13-305 provided: "Section 406(a), (c), (j), (m), (p), (q), (s), (w), (bb), (dd), (ee), (hh) through (kk), (mm) through (oo), (qq) through (uu), (yy), (zz), (bbb), (ddd), and (fff) shall apply for all tax years or taxable periods beginning after December 31, 2000."

## § 47-2415. Regulations.

The Mayor may issue regulations necessary to carry out the provisions of this chapter.

(May 27, 1949, 63 Stat. 136, ch. 146, title VI, § 616; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2415.

**Legislative history of Law 4-71.** — For

legislative history of D.C. Law 4-71, see Historical and Statutory Notes following § 47-2401.

## § 47-2416. Severability.

If any provision of this chapter, or the application thereof to any person or circumstance, is held invalid, the remainder of this chapter, and the application of such provisions to other persons or circumstances shall not be affected thereby.

(May 27, 1949, 63 Stat. 139, ch. 146, title VI, § 617; Mar. 10, 1982, D.C. Law 4-71, § 2, 28 DCR 5243; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2416.

**Legislative history of Law 4-71.** — For

legislative history of D.C. Law 4-71, see Historical and Statutory Notes following § 47-2401.

## § 47-2417. Effective date.

The provisions of this chapter shall take effect on April 9, 1982.

(Mar. 10, 1982, D.C. Law 4-71, § 4(b), 28 DCR 5243; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2417.

**Legislative history of Law 4-71.** — For

legislative history of D.C. Law 4-71, see Historical and Statutory Notes following § 47-2401.

## § 47-2418. Cigarette tax stamps purchased or held prior to effective date; payment of tax; records.

(a) Any wholesaler, retailer, or vending machine operator licensed under § 47-2404(b) who has purchased any cigarette tax stamps, affixed to a



cigarette package or otherwise, prior to July 1, 1993, or that are otherwise held on July 1, 1993, shall:

(1) Pay to the Mayor, in accordance with paragraph (2) of this subsection, an amount equal to the difference between the amount of tax represented by cigarette tax stamps purchased prior to July 1, 1993, and held on July 1, 1993, and the amount of tax that an equal number of cigarette tax stamps would represent if purchased on July 1, 1993;

(2) File with the Mayor, within 20 days after July 1, 1993, on a form to be prescribed by the Mayor, a statement showing the number of cigarette tax stamps held by him or her as of July 1, 1993, and pay to the Mayor, the amount specified in paragraph (1) of this subsection; and

(3) Keep and preserve for the 12-month period immediately following July 1, 1993, the inventories and other records that form the basis for the information furnished to the Mayor under paragraph (2) of this subsection.

(b) For the purposes of this section, a tax stamp shall be considered to be held by a wholesaler, retailer, or vending machine operator:

(1) If title is passed to the wholesaler, retailer, or vending machine operator, whether or not delivery to him or her has been made; and

(2) If title has not at any time been transferred to any person other than a wholesaler, retailer, or vending machine operator.

(c) Any violations of this section shall be punishable as provided in § 47-2414 [repealed].

(d) Prosecutions under this section shall be brought on information in the Superior Court of the District of Columbia by the Attorney General for the District of Columbia.

(May 27, 1949, ch. 146, title VI, § 618, as added Feb. 28, 1987, D.C. Law 6-198, § 2(b), 34 DCR 515; Aug. 17, 1991, D.C. Law 9-31, § 2(b), 38 DCR 4218; Sept. 10, 1992, D.C. Law 9-145, § 109(b), 39 DCR 4895; Sept. 30, 1993, D.C. Law 10-25, § 113(b), 40 DCR 5489; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 13, 2005, D.C. Law 15-354, § 73(i)(2), 52 DCR 2638.)

**Prior Codifications.** — 1981 Ed., § 47-2418.

**Effect of amendments.** — D.C. Law 15-354 substituted "Attorney General for the District of Columbia" for "Corporation Counsel".

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 114(b) of Omnibus Budget Support Temporary Act of 1991 (D.C. Law 9-19, August 17, 1991, law notification 38 DCR 5786).

For temporary (225 day) amendment of section, see § 109(b) of Omnibus Budget Support Temporary Act of 1992 (D.C. Law 9-134, July 23, 1992, law notification 39 DCR 5815).

For temporary (225 day) amendment of section, see § 113(b) of Omnibus Budget Support Temporary Act of 1993 (D.C. Law 10-11, August 6, 1993, law notification 40 DCR 6213).

**Legislative history of Law 6-198.** — Law 6-198, the "Cigarette Tax Amendment Act of 1986," was introduced in Council and assigned

Bill No. 6-413, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 25, 1986 and December 16, 1986, respectively. Signed by the Mayor on January 8, 1987, it was assigned Act No. 6-257 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 9-31.** — For legislative history of D.C. Law 9-31, see Historical and Statutory Notes following § 47-2402.

**Legislative history of Law 9-145.** — For legislative history of D.C. Law 9-145, see Historical and Statutory Notes following § 47-2402.

**Legislative history of Law 10-25.** — For legislative history of D.C. Law 10-25, see Historical and Statutory Notes following § 47-2402.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

**Effective date.** — Section 3(b) of D.C. Law

6-198 provided that: "The provisions of section 2 shall not operate before the 1st day of the 1st month that begins more than 30 days after February 28, 1987."

impact of Law 10-25: Section 113(c) of D.C. Law 10-25 provided that the Mayor shall report to the Council within 6 months of implementation on the fiscal impact of this section.

**Editor's notes.** — Mayor to report fiscal

## § 47-2419. Prohibitions on gray market cigarettes.

No person shall:

(1) Sell or distribute in the District, to acquire, hold, own, possess, or transport, for sale or distribution in the District, or to import, or cause to be imported, into the District for sale or distribution in the District:

(A)(i) Any cigarettes the package of which bears a statement, label, stamp, sticker, or notice indicating that the manufacturer did not intend the cigarettes to be sold, distributed, or used in the United States, including labels stating "For Export Only," "U.S. Tax-Exempt," "For Use Outside U.S.," or similar wording; or

(ii) Any cigarettes the package of which does not comply with:

(I) All requirements imposed by or under federal law regarding warnings and other information on packages of cigarettes manufactured, packaged, or imported for sale, distribution, or use in the United States, including the precise warning labels specified in section 4 of the Federal Cigarette Labeling and Advertising Act, approved July 27, 1965 (79 Stat. 283; 15 U.S.C. § 1333) ("1965 Act"); or

(II) All federal trademark and copyright laws;

(B) Any cigarettes imported into the United States after December 31, 1999, in violation of section 5754 of the Internal Revenue Code of 1986, approved October 22, 1986 (111 Stat. 673; 26 U.S.C. § 5754), or any other federal law, or implementing regulations;

(C) Any cigarettes that the person otherwise knows, or has reason to know, that the manufacturer did not intend to be sold, distributed, or used in the United States; or

(D) Any cigarettes for which there has not been submitted to the Secretary of the U. S. Department of Health and Human Services the list of the ingredients added to tobacco in the manufacture of the cigarettes required by section 7 of the Federal Cigarette Labeling and Advertising Act, approved October 12, 1984 (98 Stat. 2203; 15 U.S.C. § 1335a) ("1984 Act").

(2) Alter the package of any cigarettes, before sale or distribution to the ultimate consumer, so as to remove, conceal, or obscure:

(A) Any statement, label, stamp, sticker, or notice described in paragraph (1)(A) of this section; or

(B) Any health warning that is not specified in, or does not conform with the requirements of, section 4 of the 1965 Act;

(3) To affix any stamp, required under this chapter, to the package of any cigarettes described in paragraph (1) of this section or altered in violation of paragraph (2) of this section.

(Apr. 3, 2001, D.C. Law 13-225, § 2(c), 48 DCR 35.)



**Temporary Addition of Section.** — For temporary (225 day) addition, see § 2(b) of Gray Market Cigarette Prohibition Temporary Act of 2000 (D.C. Law 13-164, October 4, 2000, law notification 47 DCR 8611).

**Emergency legislation.** — For temporary (90-day) addition, see 2(b) of the Grey market Cigarette Prohibition Emergency Act of 2000 (D.C. Act 13-350, June 5, 2000, 47 DCR 5022).

For temporary (90-day) addition, see § 2 of the Grey market Cigarette Prohibition Congressional Review Emergency Act of 2000 (D.C. Act 13-413, August 14, 2000, 47 DCR 7291).

**Legislative history of Law 13-225.** — Law 13-225, the “Gray Market Cigarette Prohibition Act of 2000”, was introduced in Council and assigned Bill No. 13-530, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 3, 2000, and November 8, 2000, respectively. Signed by the Mayor on November 29, 2000, it was assigned Act No. 13-487 and transmitted to both Houses of Congress for its review. D.C. Law 13-225 became effective on April 3, 2001.

## § 47-2420. Documentation.

On the first business day of each month, each person licensed to affix the state tax stamp to cigarettes shall file with the Mayor, for all cigarettes imported into the United States to which the person has affixed the tax stamp in the preceding month:

(1) A copy of the permit issued under section 5713 of the Internal Revenue Code of 1986, approved October 22, 1986 (68A Stat 712; 26 U.S.C. § 5713), to the person importing the cigarettes into the United States allowing the person to import the cigarettes, and the customs form containing, with respect to the cigarettes, the internal revenue tax information required by the U.S. Bureau of Alcohol, Tobacco and Firearms;

(2) A statement, signed by the person under the penalty of perjury, which shall be treated as confidential by the Mayor and exempt from disclosure under subchapter II of Chapter 5 of Title 2, identifying the brand and brand styles of the cigarettes, and the person, if any, to whom the cigarettes have been conveyed for resale; and

(3) A statement, signed by an officer of the manufacturer or importer under penalty of perjury, certifying that the manufacturer or importer has complied with the package health warning and ingredient reporting requirements of section 4 of the 1965 Act and section 7 of the 1984 Act with respect to the cigarettes.

(Apr. 3, 2001, D.C. Law 13-225, § 2(c), 48 DCR 35; June 19, 2001, D.C. Law 13-313, § 16(c)(1), 48 DCR 1873.)

**Effect of amendments.** — D.C. Law 13-313 inserted the section symbol in the section heading.

**Temporary Addition of Section.** — For temporary (225 day) addition, see § 2(b) of Gray Market Cigarette Prohibition Temporary Act of 2000 (D.C. Law 13-164, October 4, 2000, law notification 47 DCR 8611).

**Emergency legislation.** — For temporary (90-day) addition, see 2(b) of the Grey market

Cigarette Prohibition Emergency Act of 2000 (D.C. Act 13-350, June 5, 2000, 47 DCR 5022).

For temporary (90-day) addition, see § 2 of the Grey market Cigarette Prohibition Congressional Review Emergency Act of 2000 (D.C. Act 13-413, August 14, 2000, 47 DCR 7291).

**Legislative history of Law 13-225.** — For Law 13-225, see notes under § 47-2419.

**Legislative history of Law 13-313.** — For Law 13-313, see notes under § 47-2005.

## § 47-2421. Criminal penalties.

Any person who commits any of the acts prohibited by § 47-2419, either knowingly or having reason to know he is doing so, or who fails to comply with

any of the requirements of § 47-2420, shall, upon conviction thereof, be fined not more than \$5,000 or imprisoned for not more than 3 years, or both.

(Apr. 3, 2001, D.C. Law 13-225, § 2(c), 48 DCR 35; June 19, 2001, D.C. Law 13-313, § 16(c)(2), 48 DCR 1873; Apr. 13, 2005, D.C. Law 15-354, § 73(i)(3), 52 DCR 2638.)

**Effect of amendments.** — D.C. Law 13-313 inserted the section symbol in the section heading.

D.C. Law 15-354 substituted “fined not more than \$5,000 or imprisoned for not more than 3 years, or both” for “subject to the penalties under § 47-2414(a)”.

**Temporary Addition of Section.** — For temporary (225 day) addition, see § 2(b) of Gray Market Cigarette Prohibition Temporary Act of 2000 (D.C. Law 13-164, October 4, 2000, law notification 47 DCR 8611).

**Emergency legislation.** — For temporary

(90-day) addition, see 2(b) of the Grey market Cigarette Prohibition Emergency Act of 2000 (D.C. Act 13-350, June 5, 2000, 47 DCR 5022).

For temporary (90-day) addition, see § 2 of the Grey market Cigarette Prohibition Congressional Review Emergency Act of 2000 (D.C. Act 13-413, August 14, 2000, 47 DCR 7291).

**Legislative history of Law 13-225.** — For Law 13-225, see notes under § 47-2419.

**Legislative history of Law 13-313.** — For Law 13-313, see notes under § 47-2005.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

## § 47-2422. Civil penalties and administrative sanctions.

(a) The Mayor may revoke, suspend, or deny under § 47-2405 the general sales license endorsement on the master business license of any cigarette dealer for a violation of this chapter or any implementing rule promulgated by the Mayor as provided under § 47-2415.

(a-1) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of § 47-2404, or any rules or regulations issued under the authority of that section, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of § 47-2404, or any rules or regulations issued under the authority of that section, shall be pursuant to Chapter 18 of Title 2.

(b) The Mayor may (1) impose a civil penalty in an amount not to exceed the greater of 500% of the retail value of the cigarettes or other tobacco product involved or \$5,000 for a violation of this chapter, or (2) assess tax due and interest on any product acquired, possessed, sold, or offered for sale in violation of this chapter.

(c) The license or authorization to affix stamps of an agent, distributor, dealer, or person found liable for a civil penalty under subsection (b)(1) of this section on 2 or more occasions shall be revoked and the agent, distributor, dealer, or person shall not be eligible for a license or authorized by the District to affix tax stamps under this chapter for one year.

(Apr. 3, 2001, D.C. Law 13-225, § 2(c), 48 DCR 35; June 19, 2001, D.C. Law 13-313, § 16(c)(3), 48 DCR 1873; July 23, 2010, D.C. Law 18-189, § 4(d), 57 DCR 3019.)

**Effect of amendments.** — D.C. Law 13-313 inserted the section symbol in the section heading.

D.C. Law 18-189 added subsec. (a-1); and, in subsec. (b), substituted “cigarettes or other tobacco product” for “cigarettes”.

**Legislative history of Law 13-225.** — For Law 13-225, see notes under § 47-2419.

**Legislative history of Law 13-313.** — For Law 13-313, see notes under § 47-2005.

**Legislative history of Law 18-189.** — For Law 18-189, see notes following § 47-2401.



## § 47-2423. Seizure and forfeiture of gray market cigarettes.

Cigarettes that are acquired, held, owned, possessed, transported in, imported into, or sold or distributed in the District in violation of § 47-2419 shall be deemed contraband and shall be subject to seizure, forfeiture, and destruction by the Mayor under § 47-2409. The cigarettes shall be deemed contraband whether the violation of this chapter is knowing or otherwise.

(Apr. 3, 2001, D.C. Law 13-225, § 2(c), 48 DCR 35; June 19, 2001, D.C. Law 13-313, § 16(c)(4), 48 DCR 1873.)

**Effect of amendments.** — D.C. Law 13-313 inserted the section symbol in the section heading.

**Legislative history of Law 13-225.** — For Law 13-225, see notes under § 47-2419.

**Legislative history of Law 13-313.** — For Law 13-313, see notes under § 47-2005.

## § 47-2424. Unfair cigarette sales.

For the purposes of this chapter, cigarettes imported or reimported into the United States for sale or distribution under a trade name, trade dress, or trademark that is the same as, or is confusingly similar to, a trade name, trade dress, or trademark used for cigarettes manufactured in the United States for sale or distribution in the United States shall be presumed to have been purchased outside of the ordinary channels of trade.

(Apr. 3, 2001, D.C. Law 13-225, § 2(c), 48 DCR 35; June 19, 2001, D.C. Law 13-313, § 16(c)(5), 48 DCR 1873.)

**Effect of amendments.** — D.C. Law 13-313 inserted the section symbol in the section heading.

**Legislative history of Law 13-225.** — For Law 13-225, see notes under § 47-2419.

**Legislative history of Law 13-313.** — For Law 13-313, see notes under § 47-2005.

## § 47-2425. General provisions.

(a) For the purpose of enforcing this chapter, the Mayor may request or share information with any state or local agency, federal agency, or any agency of a state or local agency.

(b) Any person who acquires, owns, possesses, transports into, or imports into the District cigarettes which are subject to this chapter shall, with respect to such cigarettes, maintain and keep all records required under this chapter and District law.

(c) In addition to any other remedy provided by law, any person who suffers economic injury or commercial harm as a result of a violation of this chapter may bring an action for injunctive or other equitable relief for a violation of this chapter, actual damages, if any, sustained by reason of the violation, and, as determined by the court, interest on the damages from the date of the complaint and taxable costs. If the trier of facts finds that the violation was

willful, it may increase the damages to an amount not exceeding 3 times the actual damages sustained by reason of the violation.

(d) The Mayor shall provide a copy of the Gray Market Cigarette Prohibition Act of 2000, effective April 3, 2001, (D.C. Law 13-225; 48 DCR 35), to all District licensed wholesale and retail sellers of cigarettes. The Mayor should also provide translations of the act, in Spanish, Chinese, Korean, Vietnamese, and other languages as necessary, to license applicants. These translations should be prepared in collaboration with the Office on Latino Affairs and the Office on Asian and Pacific Islander Affairs.

(Apr. 3, 2001, D.C. Law 13-225, § 2(c), 48 DCR 35; June 19, 2001, D.C. Law 13-313, § 16(c)(6), 48 DCR 1873; Mar. 2, 2007, D.C. Law 16-191, § 78, 53 DCR 6794.)

**Effect of amendments.** — D.C. Law 13-313 inserted the section symbol in the section heading.

D.C. Law 16-191, in subsec. (d), deleted “Spanish,” following “Korean”.

**Legislative history of Law 13-225.** — For Law 13-225, see notes under § 47-2419.

**Legislative history of Law 13-313.** — For Law 13-313, see notes under § 47-2005.

**Legislative history of Law 16-191.** — Law

16-191, the “Technical Amendments Act of 2006”, was introduced in Council and assigned Bill No. 16-760, which was referred to the Committee of the whole. The Bill was adopted on first and second readings on June 20, 2006, and July 11, 2006, respectively. Signed by the Mayor on July 31, 2006, it was assigned Act No. 16-475 and transmitted to both Houses of Congress for its review. D.C. Law 16-191 became effective on March 2, 2007.

## § 47-2426. Application of §§ 47-2419 through 47-2425.

(a) Sections 2419 through 2425 [§§ 47-2419 through 47-2425] shall not apply to cigarettes which, in accordance with section 555 of An Act to provide revenue, to regulate commerce with foreign countries, to encourage the industries of the United States, to protect labor and for other purposes, approved June 17, 1930 (46 Stat. 743; 19 U.S.C. § 1555(b)), and any implementing regulations, are (1) allowed to be imported or brought into the United States, or (2) sold or intended to be sold as duty-free merchandise by a duty-free sales enterprise; provided, that this section shall apply to any such cigarettes that are brought back into the customs territory for resale within the customs territory.

(b) The penalties provided in this chapter are in addition to any other penalties imposed under law.

(Apr. 3, 2001, D.C. Law 13-225, § 2(c), 48 DCR 35; June 19, 2001, D.C. Law 13-313, § 16(c)(7), 48 DCR 1873.)

**Cross references.** — Gross sales tax, “retail sale” and “sale at retail” defined, exceptions, see § 47-2001.

**Effect of amendments.** — D.C. Law 13-313 inserted the section symbol in the section heading.

**Legislative history of Law 13-225.** — For Law 13-225, see notes under § 47-2419.

**Legislative history of Law 13-313.** — For Law 13-313, see notes under § 47-2005.



## CHAPTER 25. FINANCIAL INSTITUTION, GUARANTY COMPANY, AND PUBLIC UTILITY TAXES.

Sec.	Sec.
47-2501. Gas, electric lighting, telephone, telecommunications, and heating oil companies.	47-2508. Applicability of acts of Congress to national banks in the District of Columbia.
47-2501.01. Television, video, or radio service to subscribers or paying customers.	47-2509. Declaration and payment of estimated tax.
47-2502. Bonding, title, guaranty and fidelity companies.	47-2510. Personal property tax provisions applicable to financial institutions.
47-2503. Private banks.	47-2511. Severability.
47-2504. Washington Stock Exchange.	47-2512. Savings clause.
47-2505. Note brokers.	47-2513. Rules and regulations.
47-2506. Payment of tax by private banks and note brokers.	47-2514. Real property tax provisions applicable to financial institutions.
47-2507. Transitional rules for taxing financial institutions.	47-2515. Effective date.

### § 47-2501. Gas, electric lighting, telephone, telecommunications, and heating oil companies.

(a) Before the 21st day of each calendar month, each telephone company that sells public utility services or commodities within the District, and each nonpublic utility who sells artificial gas that is delivered, by any method of delivery, to an end-user in the District shall:

(1) File an affidavit with the Mayor indicating the amount of its gross receipts for the preceding calendar month from the sales or distribution of public utility services and commodities, or the sale of artificial gas by a nonpublic utility that is delivered, by any method, to an end-user in the District;

(2) Until December 31, 2004, pay to the Mayor 11% of these gross receipts from sales included in bills for a telephone company, 11% of these gross receipts from deliveries for a person who delivers heating oil to an end-user in the District, or 11% of these gross receipts from sales determined from meters for a gas company; and until December 31, 2004, pay to the Mayor 11% of the gross receipts from the sales of natural or artificial gas by a nonpublic utility person delivered, by any method, to an end-user located in the District;

(3) After December 31, 2004, pay to the Mayor 11% of these gross receipts from sales included in bills rendered after December 31, 2004 for nonresidential customers and 10% of these gross receipts from sales included in bills rendered after December 31, 2004 for residential customers for a telephone company, 11% of these gross receipts from deliveries made after December 31, 2004 for nonresidential customers and 10% of these gross receipts from deliveries made after December 31, 2004 for residential customers for a person who delivers heating oil to an end-user in the District, or 11% of these gross receipts from sales determined from meters read after December 31, 2004 for nonresidential customers and 10% of these gross receipts from sales determined from meters read after December 31, 2004 for residential customers for a gas company; or

(4) After December 31, 2004, pay to the Mayor 11% of the gross receipts from the sales of natural or artificial gas by a nonpublic utility person delivered after December 31, 2004, by any method, to a nonresidential end-user located in the District and 10% of the gross receipts from the sales of natural or artificial gas by a nonpublic utility person delivered after December 31, 2004, by any method, to a residential end-user located in the District.

(5) After December 1, 2005, pay to the Mayor:

(A) 11% of these gross receipts from the sales included in bills rendered after December 1, 2005, for nonresidential customers and 10% of these gross receipts from sales included in bills rendered after December 1, 2005, for residential customers for a telephone company,

(B) 11% of these gross receipts from deliveries made after December 1, 2005, for nonresidential customers and 10% of these gross receipts from deliveries made after December 1, 2005, for residential customers for a person who delivers heating oil to an end-user in the District; or

(C) 11% of those gross receipts from the sales of artificial gas delivered by any method after December 1, 2005, for nonresidential customers and 10% of those gross receipts from sales of artificial gas delivered by any method after December 1, 2005, for residential customers by a nonpublic utility to an end-user in the District.

(6) After September 30, 2006, pay to the Mayor:

(A)(i) 11% of these gross receipts from the sales included in bills rendered after September 30, 2006, for nonresidential customers and 10% of these gross receipts from sales included in bills rendered after September 30, 2006, for residential customers for a telephone company;

(ii) For the purposes of sub-subparagraph (i) of this subparagraph, in determining whether a particular customer is a residential or nonresidential customer, a telephone company may rely upon existing customer classifications, such as "individual," "consumer," "enterprise," "business," "corporate," or "government".

(B) 11% of those gross receipts from the sales of artificial gas delivered by any method after September 30, 2006, for nonresidential customers and 10% of those gross receipts from sales of artificial gas delivered by any method after September 30, 2006, for residential customers by a nonpublic utility to an end-user in the District.

(a-1) [Repealed].

(a-2) One-eleventh of the total tax collected from nonresidential customers pursuant to subsection (a)(3), (4), (5), and (6) of this section, or any successor tax, shall be deposited in the Ballpark Revenue Fund established by [§ 10-1601.02].

(a-3) For sales included in bills rendered after December 1, 2005, before the 21st day of each month beginning January 2006, each gas company that provides distribution services to District customers shall:

(1) File an affidavit with the Mayor indicating the number of therms of natural gas delivered for final consumption in the District for the preceding billing period; and

(2)(A)(i) Pay to the Mayor a tax of \$0.0703, beginning December 2, 2005



and ending September 28, 2006, for each therm of natural gas delivered to end-users in the District for the billing period;

(ii) Pay to the Mayor a tax of \$0.0707, beginning September 29, 2006, for each therm of natural gas delivered to end-users in the District for the preceding billing period; and

(B)(i) Pay to the Mayor an additional tax of \$0.00983, beginning December 2, 2005 and ending September 28, 2006, for each therm of natural gas delivered to nonresidential end-users in the District for the billing period;

(ii) Pay to the Mayor an additional tax of \$0.00707, beginning September 29, 2006, for each therm of natural gas delivered to nonresidential end-users in the District for the preceding billing period.

(iii) Revenues received by the District pursuant to this subparagraph shall be deposited in the Ballpark Revenue Fund established by § 10-1601.02. Payments under this subparagraph shall be in addition to any other payments under this section.

(iv) For the purposes of this subparagraph, for meter readings on or after June 28, 2006, residential end-use customers with group-metered accounts shall be residential customers. Group-metered accounts shall include service to any multiple dwelling building or property with 4 or more dwelling units.

(3) Each gas company that provides distribution services to District customers shall be allowed to recover the tax imposed under paragraph (1) of this section in its rates as a surcharge on customers' bills.

(4) The tax imposed under paragraph (1) of this subsection shall be reflected as a separate line item on each bill for distribution services sent by each gas company that provides distribution services to District.

(a-4)(1) For sales included in bills rendered after September 30, 2006, before the 21st day of each month beginning November 1, 2006, each person who delivers heating oil to an end-user in the District shall:

(A) File an affidavit with the Mayor indicating the number of gallons of home heating oil delivered for final consumption in the District for the preceding billing period; and

(B)(i) Pay to the Mayor a tax of \$0.17, beginning October 1, 2006, for each gallon of home heating oil delivered to end-users in the District for the preceding billing period; and

(ii)(I) Pay to the Mayor an additional tax of \$0.017, beginning October 1, 2006, for each gallon of home heating oil delivered to nonresidential end-users in the District for the preceding billing period.

(II) Revenues received by the District pursuant to this sub-subparagraph shall be deposited in the Ballpark Revenue Fund established by [§ 10-1601.02]. Payments under this subparagraph shall be in addition to any other payments under this section.

(III) For the purposes of this sub-subparagraph, beginning July 1, 2006, in determining whether a particular customer is a residential or nonresidential customer, all deliveries to a personal place of dwelling shall be considered residential, including end-users living in cooperative housing associations, condominiums, and apartment communities.

(2) Any gross receipts from sales made on or after October 1, 2006, that are not included in bills rendered after September 30, 2006, and taxed under subsection (a-4) of this section shall be taxed at the appropriate rates provided in subsection (a)(5) of this section and reported in the affidavit due on October 21, 2006.

(3) Each person who delivers heating oil to an end-user in the District shall be allowed to recover the tax imposed under paragraph (1) of this section in its rates as a surcharge on customers' bills.

(4) The tax imposed under paragraph (1) of this subsection shall be reflected as a separate line item on each bill for heating oil delivered to an end-user in the District sent by each person who delivers heating oil to end-users in the District.

(b)(1)(A) For the period beginning July 1, 1986, and ending February 28, 1989, each telecommunication company not subject to the tax imposed by subsection (a) of this section shall:

(i) Report by affidavit filed with the Mayor the amount of its monthly gross receipts from the sale of toll telecommunication services that originate from or terminate on telecommunication equipment located in the District and for which a toll charge or periodic charge is billed to an apparatus, telephone, or account in the District, to a customer location in the District, or to a person residing in the District, without regard to where the bill for the service is physically received; and

(ii) Pay to the Mayor 6.7% of these gross receipts.

(B) To prevent actual multi-state taxation of the sale of toll telecommunication service, for the month beginning July 1, 1986, and for each succeeding month, any telecommunication company, upon proof that it has paid a properly due excise, sales, use, or gross receipts tax in another jurisdiction on a sale that is subject to taxation under this act, shall be allowed a credit against the tax for the amount paid, but in no event shall the credit permitted under this section exceed the tax imposed under this act.

(2) For each calendar month in the period beginning after September 30, 1987, and ending February 28, 1989, each telecommunication company shall pay the gross receipts tax imposed by this subsection before the 21st day of the succeeding calendar month. The affidavits for each calendar month shall be filed at the time payment is made or on the 20th day of the succeeding calendar month, whichever is earlier.

(3)(A) For the period beginning July 1, 1986, and ending August 31, 1987, the gross receipts tax imposed by this subsection shall be due on October 1, 1987. The tax for this period shall be paid in 2 equal installments before November 1, 1987, and before January 1, 1988. The Mayor may, upon written application made before the date prescribed for payment of the tax, grant a reasonable extension of time for paying the tax whenever good cause exists for the extension. The affidavits for each calendar month of this period shall be filed at the time the first installment payment is made or on October 30, 1987, whichever is earlier.

(B) For the period beginning September 1, 1987, and ending September 30, 1987, the gross receipts tax imposed by this subsection shall be paid before



October 21, 1987. The required affidavit shall be filed at the time the payment is made or on October 20, 1987, whichever is earlier.

(C) Each telecommunication company subject to the gross receipts tax imposed by this subsection for the period beginning July 1, 1986, and ending September 30, 1987, shall be allowed a credit against the gross receipts tax imposed by this subsection for the amount of personal property tax that is allocable to the period beginning July 1, 1986, and ending September 30, 1987, and that is paid pursuant to § 47-1501 [repealed], and subchapter II of Chapter 15 of this title.

(D) Beginning July 1, 1986, a telecommunication company subject to the tax imposed by this act may be allowed an alternate method of reporting its monthly gross receipts upon showing, to the satisfaction of the Mayor that the telecommunication company does not have the capability to identify the jurisdiction of origination or termination of a particular toll telecommunication service. This showing shall be made by a written petition to the Mayor, which shall include the factual basis for the company's inability to identify the jurisdiction of origination or termination of a particular toll telecommunication service, with supporting documentation, and an alternative method of reporting for the services for which the company is unable to identify the jurisdiction of origination or termination that the company believes is reasonable and equitable, with supporting documentation. The Mayor may employ a reasonable and equitable alternate method for reporting a telecommunication company's gross receipts from this service based on information submitted pursuant to this subsection or any other information made available to the Mayor. Any alternate method for reporting a telecommunication company's gross receipts that is authorized by the Mayor shall apply only to the service for which the company is unable to identify the jurisdiction of origination or termination and shall not affect the reporting of any other gross receipts. Nothing in this section shall be deemed to relieve the obligation of a telecommunication company to pay the tax imposed by this act.

(4) Gross receipts from the sale by any telecommunication company of toll telecommunication services for resale to any other telecommunication company subject to the gross receipts tax under this subsection shall be exempt from the gross receipts tax under this subsection.

(5) For purposes of this subsection:

(A) The term "telecommunication company" includes and is not limited to every person, as defined in § 47-2001(i), and lessee of a person who provides for the transmission or reception within the District of Columbia of any form of toll telecommunication service for a consideration.

(B) The term "toll telecommunication service" means the transmission or reception of any sound, vision, or speech communication for which there is a toll charge that varies in amount with the distance or elapsed transmission time of each individual communication; or the transmission or reception of any sound, vision, or speech communication that entitles a person, as defined in § 47-2001(i), upon the payment of a periodic charge, which is determined as a flat amount or upon the basis of total elapsed transmission time, to an unlimited number of communications to or from all or a substantial portion of

the persons having telephone or radio telephone stations in a specified area that is outside the local telephone system area in which the station providing this service is located.

(c) Notwithstanding any other provision of law, each gas company, electric company, telephone company, telecommunication company, and each person who, by any method of delivery, delivers heating oil to an end-user in the District, and each nonpublic utility who sells natural or artificial gas that is delivered, by any method, to an end-user in the District subject to the tax imposed by this section shall pay, in addition to any tax imposed by this section, the franchise tax imposed by Chapter 18 of this title, the real property tax imposed by Chapter 8 of this title, and the personal property tax imposed by § 47-1501 [repealed], and subchapter II of Chapter 15 of this title, to the extent provided in § 47-1508. Beginning in FY 1999, the amount of tax imposed by this section shall not be calculated as gross revenues to which the tax is then applied.

(d) Before February 1, 1988, the Mayor shall:

(1) Report to the Council on the tax treatment of telecommunication and related services in other jurisdictions; and

(2) Make recommendations as to what, if any, additional telecommunication and related services should be subject to tax by the District.

(d-1)(1) Before the 21st day of each calendar month, each electric company that provides distribution services to District of Columbia ratepayers shall:

(A) File an affidavit with the Mayor indicating the number of kilowatt-hours of electricity delivered for final consumption in the District of Columbia for the preceding calendar month; and

(B)(i) Pay to the Mayor a tax of \$0.007 for each kilowatt-hour of electricity delivered to end-users in the District of Columbia for the preceding calendar month; and

(ii)(I) Pay to the Mayor a tax of \$0.0007 for each kilowatt-hour of electricity delivered to nonresidential end-users in the District of Columbia for the preceding calendar month.

(II) Revenues received by the District pursuant to this sub-subparagraph shall be deposited in the Ballpark Revenue Fund established by § 10-1601.02. Payments under this sub-subparagraph shall be in addition to any other payments under this section.

(2) Each electric company providing distribution services to District of Columbia ratepayers shall be allowed to recover the tax imposed under paragraph (1) of this subsection in its rates. Recovery of the tax shall not be subject to any rate cap imposed pursuant to In the Matter of the Investigation into Electrical Services, Market Competition, and Regulation Policies, Formal Case No. 945 (Public Service Commission 1995) or Chapter 15 of Title 34.

(3) The tax imposed under paragraph (1) of this subsection shall be reflected as a separate line item on each bill for distribution services sent by an electric company.

(4) The rate of tax in paragraph (1)(B) of this subsection shall be subject to reduction in accordance with § 47-143.

(e) The Mayor shall issue retroactive and prospective rules necessary or



appropriate to carry out the provisions of this section in accordance with § 2-505.

(July 1, 1902, 32 Stat. 617, ch. 1352, § 6, par. 5; July 26, 1939, 53 Stat. 1107, ch. 367, title IV, § 2(a); May 18, 1954, 68 Stat. 118, ch. 218, title XIV, § 1401; July 24, 1956, 70 Stat. 599, ch. 669, § 8(a); Oct. 21, 1972, 86 Stat. 1016, Pub. L. 92-518, title III, § 303(a); Oct. 21, 1975, D.C. Law 1-23, title V, § 501(a)(1), 22 DCR 2105; Sept. 13, 1980, D.C. Law 3-95, § 201(a), (b), 27 DCR 3509; June 22, 1983, D.C. Law 5-14, § 102, 30 DCR 2632; Oct. 1, 1987, D.C. Law 7-25, § 2, 34 DCR 5068; Sept. 20, 1989, D.C. Law 8-26, § 22, 36 DCR 4723; Aug. 17, 1991, D.C. Law 9-34, § 2, 38 DCR 4223; Sept. 10, 1992, D.C. Law 9-145, § 110(a), 39 DCR 4895; Feb. 5, 1994, D.C. Law 10-68, § 48, 40 DCR 6311; June 14, 1994, D.C. Law 10-128, §§ 106(a), 106(b), 41 DCR 2096; Apr. 18, 1996, D.C. Law 11-110, § 55, 43 DCR 530; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 30, 1998, D.C. Law 12-99, § 2(b), 45 DCR 1524; Apr. 20, 1999, D.C. Law 12-264, § 52(p), 46 DCR 2118; July 18, 2000, D.C. Law 13-148, § 2(c), 47 DCR 4636; June 5, 2003, D.C. Law 14-307, § 902(d), 49 DCR 11664; Mar. 13, 2004, D.C. Law 15-105, § 86(a), 51 DCR 881; Apr. 8, 2005, D.C. Law 15-320, § 110(e), 52 DCR 1757; Sept. 19, 2006, D.C. Law 16-161, §§ 101, 201(b), 53 DCR 5392; Mar. 2, 2007, D.C. Law 16-191, §§ 79, 93, 53)

**Cross references.** — Compensating-use tax, “retail sale”, “sale at retail” and “sold at retail” defined, exceptions, see § 47-2201.

Gross sales tax, exemptions, sales of personal property purchased by a toll telecommunication company, see § 47-2005.

Income and franchise taxes, purpose of chapter, imposition of franchise tax, see § 47-1810.01.

Taxation of personal property, exemptions, wireless telecommunication company, see § 47-1508.

Tax on corporations and financial institutions, “corporation,” “taxable income” and “taxable period” defined, see § 47-1807.01.

Toll telecommunication service tax, exemptions, see § 47-3904.

**Section references.** — This section is referred to in §§ 47-368.03, 47-2001, and 47-2507.

**Prior Codifications.** — 1981 Ed., § 47-2501.

1973 Ed., § 47-1701.

**Effect of amendments.** — D.C. Law 13-148, in subsec. (a), in the introductory text deleted “, electric lighting” following “each gas”; in par. (3) substituted “for a gas company” for “for an electric lighting or gas company”; in subsec. (c) substituted “gas company, electric company” for “each gas, electric lighting” and substituted “, in addition to any tax imposed by this section,” for “, in addition to the gross receipts tax,”; and added subsec. (d-1).

D.C. Law 14-307, in subsec. (a), rewrote pars. (3) and (4); added subsec. (a-1); and in subsec.

(d-1), substituted “\$0.0077” for “\$0.007” in par. (1)(B), and added par. (4).

D.C. Law 15-105, in subsec. (a-1), substituted “§ 47-368.03” for “§ 47-143”.

D.C. Law 15-320 rewrote subsecs. (a)(2), (3), and (4); added subsec. (a-2); and rewrote subsec. (d-1)(1)(B).

D.C. Law 16-161, in subsec. (a), rewrote the lead-in text, substituted “or the sale of artificial gas” for “the delivery of heating oil to an end-user in the District or sale of natural or artificial gas” in par. (1), and added pars. (5) and (6); repealed subsec. (a-1); in subsec. (a-2), substituted “pursuant to subsection (a)(3), (4), (5), and (6) of this section” for “pursuant to subsection (a)(3) and (4) of this section”, and substituted “One-eleventh of the total tax collected from nonresidential customers” for “One-eleventh of the total tax collected”; added subsecs. (a-3) and (a-4); in subsec. (d-1)(1)(B)(i), substituted “a tax of \$0.007” for “a tax of \$ 0.0077”; rewrote subsec. (d-1)(1)(B)(ii)(I); and, in subsec. (e), substituted “necessary or appropriate” for “necessary”.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 20 of Toll Telecommunications Service Tax Temporary Act of 1989 (D.C. Law 8-4, May 23, 1989, law notification 36 DCR 4154).

For temporary (225 day) amendment of section, see § 2 of District of Columbia Gross Receipts and Toll Telecommunication Service Tax Temporary Amendment Act of 1991 (D.C. Law 9-34, August 17, 1991, law notification 38 DCR 5801).

For temporary (225 day) amendment of section, see § 2 of District of Columbia Gross Receipts and Toll Telecommunication Service Tax Temporary Amendment Act of 1992(D.C. Law 9-124, June 11, 1992, law notification 39 DCR 4686).

For temporary (225 day) amendment of section, see § 2 of Natural and Artificial Gas and Gross Receipts Tax Temporary Amendment Act of 1996 (D.C. Law 11-260, April 25, 1997, law notification 44 DCR 6798).

Section 2(d) of D.C. Law 16-7, in subsec. (a), in par. (3), deleted "11% of these gross receipts from deliveries made after December 31, 2002, for a person who delivers heating oil to an end-user in the District," and added par. (3A) to read as follows:

"(3A) After April 30, 2003, pay to the Mayor 11% of these gross receipts from deliveries made after April 30, 2003, for a person who delivers heating oil to an end-user in the District."

Section 6(b) of D.C. Law 16-7 provided that the act shall expire after 225 days of its having taken effect.

Section 2(b) of D.C. Law 16-29, in subsec. (a-1), inserted "This paragraph shall expire on January 1, 2005."; in subsec. (a-2), substituted "Beginning, January 1, 2005, one-eleventh of the total tax collected from nonresidential customers" for "One-eleventh of the total tax collected"; in subsec. (d-1)(1)(B), substituted "a tax of \$0.007, as of January 1, 2005," for "a tax of \$ 0.0077" in sub-subpar. (i), and rewrote sub-subpar. (ii)(I); and, in subsec. (e), substituted "necessary or appropriate" for "necessary". Sub-subpar. (ii)(I) of subsec. (d-1)(1)(B) reads as follows:

"(ii)(I) Pay to the Mayor a tax of \$0.0007, as of January 1, 2005, for each kilowatt-hour of electricity delivered to nonresidential end-users in the District of Columbia for the preceding calendar month."

Section 4(b) of D.C. Law 16-29 provided that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 16-48, in subsec. (a), substituted "each calendar month, each" for "each calendar month, each gas and" and "nonpublic utility who sells" for "and nonpublic utility who sells natural or" in the lead-in language, deleted "or natural" following "sale of" in par. (1), and added par. (5); in subsec. (a-2), substituted "pursuant to subsection (a)(3) and (4) of this subsection and after December 1, 2005, one-eleventh of the total tax collected from nonresidential customers pursuant to subsection (a)(5) of this section" for "pursuant to subsection (a)(3) and (4) of this subsection"; and added subsecs. (a-3) and (a-4). Subsecs. (a)(5), (a-3) and (a-4) read as follows:

"(5) After December 1, 2005, pay to the Mayor:

"(A) 11% of these gross receipts from the sales included in bills rendered after December 1, 2005, for nonresidential customers and 10% of these gross receipts from sales included in bills rendered after December 1, 2005, for residential customers for a telephone company;

"(B) 11% of these gross receipts from deliveries made after December 1, 2005, for nonresidential customers and 10% of these gross receipts from deliveries made after December 1, 2005, for residential customers for a person who delivers heating oil to an end-user in the District; or

"(C) 11% of those gross receipts from the sales of artificial gas delivered by any method after December 1, 2005, for nonresidential customers and 10% of those gross receipts from sales of artificial gas delivered by any method after December 1, 2005, for residential customers by a nonpublic utility to an end-user in the District."

"(a-3)(1) For sales included in bills rendered after December 1, 2005, before the 21st day of each month beginning January 2006, each gas company that provides distribution services to District customers shall:

"(A) File an affidavit with the Mayor indicating the number of therms of natural gas delivered for final consumption in the District for the preceding billing period; and

"(B)(i) Pay to the Mayor a tax of \$0.0703, as of December 2, 2005, for each therm of natural gas delivered to end-users in the District for the preceding billing period; and

"(ii)(I) Pay to the Mayor a tax of \$0.00983, as of December 2, 2005, for each therm of natural gas delivered to nonresidential end-users in the District for the preceding billing period.

"(II) Revenues received by the District pursuant to this sub-subparagraph shall be deposited in the Ballpark Revenue Fund established by § 10-1601.02. Payments under this sub-subparagraph shall be in addition to any other payments under this section.

"(2) Each gas company that provides distribution services to District customers shall be allowed to recover the tax imposed under paragraph (1) of this section in its rates as a surcharge on customers' bills.

"(3) The tax imposed under paragraph (1) of this subsection shall be reflected as a separate line item on each bill for distribution services sent by each gas company that provides distribution services to District.

"(4) The amount of the tax imposed under paragraph (1) of this subsection shall be in effect during Fiscal Year 2006.

"(a-4) Any gross receipts from sales made on or after November 1, 2005, that are not included in bills rendered after December 1, 2005, and taxed under subsection (a-3) of this section shall be taxed at the appropriate rates provided in subsection (a)(4) of this section and



reported in the affidavit due on December 21, 2005."

Section 4(b) of D.C. Law 16-48 provided that the act shall expire after 225 days of its having taken effect.

Section 2(g) of D.C. Law 16-102 repealed subsec. (a-1); in subsec. (a-2), substituted "One-eleventh of the total tax collected from nonresidential customers" for "One-eleventh of the total tax collected"; in subpar. (d-1)(1)(B)(i), substituted "a tax of \$0.007" for "a tax of \$0.0077"; in subsec. (e), substituted "necessary or appropriate" for "necessary"; and rewrote subpar. (d-1)(1)(B)(ii)(I) to read as follows:

"(ii)(I) Pay to the Mayor a tax of \$0.0007 for each kilowatt-hour of electricity delivered to nonresidential end-users in the District of Columbia for the preceding calendar month."

Section 11(b) of D.C. Law 16-102 provided that the act shall expire after 225 days of its having taken effect.

Temporary Enactment Section 2 of D.C. Law 16-44 enacted provisions to read as follows:

"Sec. 2. Fuel cost reduction plan.

"(a) The Mayor shall submit a comprehensive plan to the Council setting forth the most appropriate method or methods that may be executed to address increasing costs associated with motor vehicle fuel and natural gas. The report shall, at a minimum examine the following methods: moving price ceilings; elimination of the gas tax in whole or in part; establishing gasoline sales-tax holidays; gas vouchers; and examining the city's buying power to purchase home heating fuel.

"(b) The report shall include:

"(1) Historical fuel (motor vehicle, natural gas, heating oil) cost trends in the District of Columbia from calendar year 2003 through December 2005;

"(2) An assessment concerning the multiple variables that have influenced the cost shifts through the designated period; and

"(3) An assessment concerning possible price gouging, by local motor vehicle fuel retailers, and wholesalers.

"(c) The report shall be due on December 15, 2005."

Section 4(b) of D.C. Law 16-44 provided that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 16-45 enacted provisions to read as follows:

"Sec. 2. Increased funding for the Low Income Home Energy Assistance Program and Utility Discount Programs.

"Except for the funds which are deposited in the Ballpark Revenue Fund under D.C. Official Code § 47-2501(a-2), for fiscal year 2006, the portion of the funds collected with respect to sales of heating oil and artificial gas under D.C. Official Code § 47-2501(a) which exceed the amount which is estimated, as of the Septem-

ber 2005 revenue estimates, to be collected with respect to such sales in the budget and financial plan shall be used for the Low Income Home Energy Assistance Program and Utility Discount Programs administered by the District of Columbia Office of Energy."

Section 4(b) of D.C. Law 16-45 provided that the act shall expire after 225 days of its having taken effect.

Section 8 of D.C. Law 16-102 added Sec. 4a to D.C. Law 16-102 to read as follows:

"Sec. 4a. Applicability. Section 2(d) shall apply for the period beginning May 1, 2003 and ending December 31, 2004."

Section 11(b) of D.C. Law 16-102 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary amendment of section, see § 2 of the Natural and Artificial Gas Gross Receipts Tax Emergency Amendment Act of 1996 (D.C. Act 11-508, January 17, 1997, 44 DCR 1227), and § 2 of the Natural and Artificial Gas Gross Receipts Tax Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-51, March 31, 1997, 44 DCR 2201).

For temporary policy statement of act, see § 4 of the Natural and Artificial Gas Gross Receipts Tax Emergency Amendment Act of 1996 (D.C. Act 11-508, January 17, 1997, 44 DCR 1227).

For temporary policy statement of act, see § 4 of the Natural and Artificial Gas Gross Receipts Tax Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-51, March 31, 1997, 44 DCR 2201).

For temporary amendment of section, see § 2(b) of the Natural and Artificial Gas Gross Receipts Tax Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-304, March 20, 1998, 45 DCR 1898).

For temporary (90 day) amendment of section, see § 902(d) and 903 of Fiscal Year 2003 Budget Support Amendment Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) amendment of section, see §§ 902(d) and 903 of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of section, see §§ 902(d) and 903 of Fiscal Year 2003 Budget Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

For temporary (90 day) amendment of section, see § 2(d) of Finance and Revenue Technical Corrections Emergency Amendment Act of 2005 (D.C. Act 16-51, March 17, 2005, 52 DCR 3164).

For temporary (90 day) amendment of section, see § 2(b) of Utility Taxes Technical Cor-

rections Emergency Act of 2005 (D.C. Act 16-86, May 18, 2005, 52 DCR 5265).

For temporary (90 day) amendment of section, see § 2(b) of Utility Technical Corrections Congressional Review Emergency Act of 2005 (D.C. Act 16-177, October 4, 2005, 52 DCR 9074).

For temporary (90 day) amendment of section, see § 2 of Natural Gas Taxation Relief Emergency Act of 2005 (D.C. Act 16-186, October 28, 2005, 52 DCR 10012).

For temporary (90 day) enactment, see § 2 of Gasoline Fuel Tax Examination Emergency Act of 2005 (D.C. Act 16-188, October 28,

**Legislative history of Law 1-23.** — Law 1-23, the "Revenue Act of 1975," was introduced in Council and assigned Bill No. 1-47, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first, amended first, and second readings, and reconsideration of second reading, on April 15, 1975, June 1, 1975, June 24, 1975 and July 11, 1975, respectively. Signed by the Mayor on July 23, 1975, it was assigned Act No. 1-34 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 3-95.** — For legislative history of D.C. Law 3-95, see Historical and Statutory Notes following § 47-2510.

**Legislative history of Law 5-14.** — Law 5-14, the "District of Columbia Revenue Act of 1983," was introduced in Council and assigned Bill No. 5-74, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 12, 1983 and April 26, 1983, respectively. Signed by the Mayor on May 4, 1983, it was assigned Act No. 5-29 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 7-25.** — Law 7-25, the "Gross Receipt Tax Amendment Act of 1987," was introduced in Council and assigned Bill No. 7-186, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 30, 1987 and July 14, 1987, respectively. Signed by the Mayor on July 17, 1987, it was assigned Act No. 7-47 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 8-26.** — Law 8-26, the "Toll Telecommunications Service Tax Act of 1989," was introduced in Council and assigned Bill No. 8-166, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 30, 1989 and June 13, 1989, respectively. Signed by the Mayor on June 27, 1989, it was assigned Act No. 8-48 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 9-145.** — For legislative history of D.C. Law 9-145, see Historical and Statutory Notes following § 47-2501.01.

**Legislative history of Law 10-68.** — Law 10-68, the "Technical Amendments Act of 1993," was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

**Legislative history of Law 10-128.** — Law 10-128, the "Omnibus Budget Support Act of 1994," was introduced in Council and assigned Bill No. 10-575, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 22, 1994, and April 12, 1994, respectively. Signed by the Mayor on April 14, 1994, it was assigned Act No. 10-225 and transmitted to both Houses of Congress for its review. D.C. Law 10-128 became effective on June 14, 1994.

**Legislative history of Law 11-110.** — Law 11-110, the "Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

**Legislative history of Law 12-99.** — Law 12-99, the "Natural and Artificial Gas Gross Receipts Tax Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-150, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 4, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 26, 1998, it was assigned Act No. 12-273 and transmitted to both Houses of Congress for its review. D.C. Law 12-99 became effective on April 30, 1998.

**Legislative history of Law 12-264.** — Law 12-264, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-804, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on January 7, 1999, it was assigned Act No. 12-626 and transmitted to both Houses of Congress for its review. D.C. Law 12-264 became effective on April 20, 1999.

**Legislative history of Law 13-148.** — Law 13-148, the "Electricity Tax Act of 2000," was introduced in Council and assigned Bill No. 13-280, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 7, 2000, and April 4, 2000, respectively. Signed by the



Mayor on July 18, 2000, it was assigned Act No. 13-335 and transmitted to both Houses of Congress for its review. D.C. Law 13-148 became effective on July 18, 2000.

**Legislative history of Law 14-307.** — For Law 14-307, see notes following § 47-903.

**Legislative history of Law 15-105.** — For Law 15-105, see notes following § 47-902.

**Legislative history of Law 15-320.** — For Law 15-320, see notes following § 47-368.03.

**Legislative history of Law 16-29.** — For Law 16-29, see notes following § 47-368.03.

**Legislative history of Law 16-161.** — For Law 16-161, see notes following § 47-368.03.

**Legislative history of Law 16-191.** — For Law 16-191, see notes following § 47-2425.

**References in text.** — “This act”, referred to in (b)(1)(B) and two places in (b)(3)(D), is D.C. Law 7-25.

Section 47-1501, referred to in subsections (b)(3)(C) and (c) of this section, was repealed by § 24 of D.C. Law 6-212.

**Delegation of Authority.** — Delegation of authority under Law 5-14, see Mayor’s Order 83-190, July 25, 1983.

Delegation of authority pursuant to D.C. Law 7-25, the “Gross Receipts Tax Amendment Act of 1987”, see Mayor’s Order 94-120, May 16, 1994 (41 DCR 3240).

**Editor’s notes.** — D.C. Law 15-324, § 2, purports to amend par. (3) of subsec. (a) without reference to the prior amendment by D.C. Law 15-320, § 110(e). The amendment by D.C. Law 15-324, § 2, was not effective.

Mayor authorized to issue rules: Section 1102 of D.C. Law 5-14 provided that the Mayor shall issue rules necessary to carry out the provisions of the act.

Section 903 of D.C. Law 14-307 provided: “Sec. 903. Applicability. Section 902 shall apply as of January 1, 2003.”

Applicability: Section 202(a) of D.C. Law 16-161 provided that section 201(a) and (b)(1) through (3) shall apply as of January 1, 2003.

## CASE NOTES

### ANALYSIS

Electric companies.

In general.

Remand.

Sales taking place within District.

Telecommunications.

Validity.

### Electric companies.

District of Columbia statute assessing franchise tax against electric companies on basis of their gross earnings for preceding year is all-inclusive, covering gross earnings from whatever source derived, and was not intended to have local operation only, especially in view of amendment narrowing scope of tax on street railroads to gross receipts within District, since Congress thereby evinced intent to maintain or continue in force broad scope of tax imposed on other utilities. D.C. Code 1929, T. 20, § 760. *Potomac Elec. Power Co. v. Hazen*, 90 F.2d 406, 1937 U.S. App. LEXIS 3830 (1937).

Gross earnings of power company subject to tax include interest and dividends from investments and rent from land, buildings, and equipment (Act July 1, 1902, § 6, par. 5 [32 Stat. 619]). *Potomac Elec. Power Co. v. Rudolph*, 29 F.2d 634, 1928 U.S. App. LEXIS 2762 (1928).

### In general.

The District of Columbia gross receipts tax applicable to public utility companies is an excise tax on privilege of furnishing franchised public utility services in the District. D.C. Code 1961, § 47-1701. *Chesapeake & Potomac Tel. Co. v. District of Columbia*, 325 F.2d 217, 1963 U.S. App. LEXIS 4029 (C.A.D.C. 1963).

When a public service company supplies services or facilities to another public utility company in the same field for sole purpose of enabling the latter company to serve its customers more efficiently, such services are not public utility commodities or services within meaning of gross receipts tax statute applicable to public utility companies, and such services are not subject to gross receipts tax. D.C. Code 1961, § 47-1701. *Chesapeake & Potomac Tel. Co. v. District of Columbia*, 325 F.2d 217, 1963 U.S. App. LEXIS 4029 (C.A.D.C. 1963).

Successor, which assumed all of liabilities of predecessor operator of streetcar and bus lines in District of Columbia, was liable for gross receipts tax on predecessor’s earnings. Joint Resolution Jan. 14, 1933, § 13, 47 Stat. 761; § 14, as added by Act Aug. 14, 1955, 69 Stat. 724; D.C. Code 1951, § 47-1701, as amended by Act July 24, 1956, § 8(a), 70 Stat. 598. *D.C. Transit System, Inc. v. Pearson*, 149 F.Supp. 18, 1957 U.S. Dist. LEXIS 3812 (D.D.C.1957).

Public Service Commission’s (PSC) holding that District of Columbia’s gross receipts tax (GRT) allows public utilities to collect a “tax-on-tax” from customers by permitting gross receipts tax on taxes collected by utilities was not erroneous given all-encompassing nature of gross receipts tax, absence of statutory language precluding tax-on-tax effect, and construction of statute by representative of Department of Finance and Revenue (DFR). D.C. Code 1981, § 47-2501. *Stiehler v. Public Serv. Comm’n*, 629 A.2d 1211, 1993 D.C. App. LEXIS 196 (1993).

### Remand.

Where Board of Tax Appeals held that Dis-

trict of Columbia might impose gross receipts tax on sale of directories to telephone companies outside of the district, but made no specific finding on question of when and where title in the directories passed, and record did not show where it passed, Court of Appeals would remand case to the board for findings, on telephone company's appeal from order imposing tax. D.C. Code 1940, §§ 28-1203, 47-1701, 47-2403, 47-2404. *District of Columbia v. Chesapeake & Potomac Tel. Co.*, 179 F.2d 814, 1950 U.S. App. LEXIS 2277 (C.A.D.C. 1950).

#### **Sales taking place within District.**

In determining whether a sale has taken place "within the District of Columbia" so as to be subject to a gross receipts tax under the statute imposing such a tax on sale of public utility commodities and services, where title has passed is determinative. D.C. Code 1940, § 47-1701. *District of Columbia v. Chesapeake & Potomac Tel. Co.*, 179 F.2d 814, 1950 U.S. App. LEXIS 2277 (C.A.D.C. 1950).

#### **Telecommunications.**

Payments received by telephone company, which rendered telephone services to public in the District of Columbia, for services rendered to telephone companies doing business in Maryland and Virginia were not subject to gross receipts tax applicable to public utility companies doing business in District of Columbia. D.C. Code 1961, § 47-1701. *Chesapeake & Potomac Tel. Co. v. District of Columbia*, 325 F.2d 217, 1963 U.S. App. LEXIS 4029 (C.A.D.C. 1963).

Sale of advertising space and black letter listings in telephone company's classified directory was sale of "public utility commodities and services", and taxable under the District of Columbia statute providing for gross receipts tax on sale of such commodities and services. D.C. Code 1940, § 47-1701. *District of Columbia v. Chesapeake & Potomac Tel. Co.*, 179 F.2d 814, 1950 U.S. App. LEXIS 2277 (C.A.D.C. 1950).

Sale of street-address directories by telephone company in District of Columbia was a sale of "public utility commodities", and taxable under statute providing for gross receipts tax on sale of such commodities. D.C. Code 1940, § 47-1701. *District of Columbia v. Chesapeake & Potomac Tel. Co.*, 179 F.2d 814, 1950 U.S. App. LEXIS 2277 (C.A.D.C. 1950).

Sale of directories by District of Columbia telephone company to companies outside the District involved sale of "public utility commodities and services", and, if title passed within the District, sales were taxable under the statute taxing gross receipts from sale of such commodities and services within the district. D.C. Code 1940, § 47-1701. *District of Columbia v. Chesapeake & Potomac Tel. Co.*, 179 F.2d

814, 1950 U.S. App. LEXIS 2277 (C.A.D.C. 1950).

Sale of telephone directory covers was sale of "public utility commodities", and was taxable under District of Columbia statute imposing gross receipts tax upon sale of such commodities. D.C. Code 1940, § 47-1701. *District of Columbia v. Chesapeake & Potomac Tel. Co.*, 179 F.2d 814, 1950 U.S. App. LEXIS 2277 (C.A.D.C. 1950).

Where all telephone company's services were performed within District of Columbia, its receipts from all its services including handling of interstate calls, which services were necessarily performed in conjunction with services which connecting companies performed outside the District, were subject to tax imposed on gross receipts from sale of public utility services within the District. D.C. Code 1940, § 47-1701. *Chesapeake & Potomac Tel. Co. v. District of Columbia*, 137 F.2d 674, 1943 U.S. App. LEXIS 2875 (1943).

District of Columbia statute assessing franchise tax against telephone companies on basis of their gross earnings for preceding year is all-inclusive, covering gross earnings from whatever source derived, and was not intended to have local operation only, especially in view of amendment narrowing scope of tax on street railroads to gross receipts within District, since Congress thereby evinced intent to maintain or continue in force broad scope of tax imposed on other utilities. D.C. Code 1929, T. 20, § 760. *Potomac Elec. Power Co. v. Hazen*, 90 F.2d 406, 1937 U.S. App. LEXIS 3830 (1937).

Network access revenues received by telephone company from various competitive long-distance telephone common carriers for providing exchange access to local customers were nontaxable as they were not from the sale of public utility commodities and services. D.C. Code 1981, § 47-2501. *District of Columbia v. Chesapeake & Potomac Tel. Co.*, 516 A.2d 181, 1986 D.C. App. LEXIS 454 (1986).

"Sale of public utility commodities and services" does not include a telephone company supplying public utility commodities to other telecommunications carriers which, in turn, provide service for the telephone company's customers; and, therefore, the network access revenues derived therefrom are not taxable under this section. *C & P Tel. Co. v. District of Columbia*, 113 WLR 1829 (Super. Ct. 1985).

#### **Validity.**

Tax assessed by District of Columbia against gas, electric, and telephone companies on basis of their gross earnings for preceding year, from whatever source derived, held not a tax upon gross earnings and unconstitutional as a burden upon interstate commerce, but a "franchise tax" measured by gross earnings. D.C. Code 1929, T. 20, § 760. *Potomac Elec. Power Co. v.*



Hazen, 90 F.2d 406, 1937 U.S. App. LEXIS 3830 (1937).

District's enactment of tax on gross receipts received from sale of toll communications services that originated from or terminated on telecommunications equipment located in District and billed to District telephone did not violate origination clause requirement that revenue bill originate in House of Representatives; self-government act, which provided source of local government's taxing authority, was not "revenue bill" for origination clause purposes, given that bill did not levy taxes to generate revenue for United States government, but rather provided measure of self-government for citizens of District. U.S. Const. Art. 1, § 7, cl. 1; D.C. Code 1981, §§ 1-201 et seq., 47-2501(b). Sprint Communications Co. v. Kelly, 642 A.2d 106, 1994 D.C. App. LEXIS 31 (1994), writ of certiorari denied by 513 U.S. 916, 115 S. Ct. 294, 130 L. Ed. 2d 208, 1994 U.S. LEXIS 6972, 63 U.S.L.W. 3267 (1994).

Enactment of tax on gross receipts received from sale of toll communications services that originated from or terminated on telecommunications equipment located in District and billed to District telephone, combined with exemptions and credits against personal property and certain sales and use taxes only when latter were paid to District, impermissibly discriminated against interstate commerce in violation of commerce clause; only company that could fully benefit from available exemptions was one that sold in the District only what it produced there. U.S. Const. Art. 1, § 8, cl. 3; D.C. Code 1981, §§ 47-1508(a)(3)(B), 47-2005(5), 47-2206(1), 47-2501(b), (b)(3)(B, C). Sprint Communications Co. v. Kelly, 642 A.2d 106, 1994 D.C. App. LEXIS 31 (1994), writ of certiorari denied by 513 U.S. 916, 115 S. Ct. 294, 130 L. Ed. 2d 208, 1994 U.S. LEXIS 6972, 63 U.S.L.W. 3267 (1994).

## **§ 47-2501.01. Television, video, or radio service to subscribers or paying customers.**

(a) On a quarterly basis and at the quarterly intervals prescribed by the Mayor, each company that sells or charges for cable television service, satellite relay television service, and any and all other distribution of television, video, or radio service with or without the use of wires provided to subscribers or paying customers, whether for basic service, ancillary service, or other special service, and any other charges related to providing the services within the District of Columbia, including, but not limited to, rental of signal receiving equipment, shall:

(1) File an affidavit with the Mayor indicating the amount of its gross receipts for the preceding calendar month from the sale of or charges for the services within the District;

(2) Until May 31, 1994, pay to the Mayor 9.7% of these gross receipts; and

(3) After May 31, 1994, pay to the Mayor 10% of its gross receipts from sales included in bills rendered after May 31, 1994.

(b) Notwithstanding any other provision of law, each company subject to the tax imposed by this section shall pay, in addition to the gross receipts tax, the franchise tax imposed by Chapter 18 of this title, the real property tax imposed by Chapter 8 of this title, the personal property tax imposed by § 47-1521 et seq., to the extent provided in § 47-1508.

(c) For the purpose of this section, the term "company" does not include a nonprofit educational organization that provides programming to subscribers or other persons under an Instructional Television Fixed Service License issued by the Federal Communications Commission. The gross receipts of a nonprofit educational organization that provides programming to subscribers or other persons under an Instructional Television Fixed Service License issued by the Federal Communications Commission shall not be subject to the tax established by this section.

(July 1, 1902, ch. 1352, § 6, par. (5A), as added Sept. 10, 1992, D.C. Law 9-145, § 110(b), 39 DCR 4895; Oct. 7, 1992, D.C. Law 9-177, § 10(b), 39 DCR 5868; June 14, 1994, D.C. Law 10-128, § 106(c), 41 DCR 2096; May 16, 1995, D.C. Law 10-255, § 45, 41 DCR 5193; Apr. 9, 1997, D.C. Law 11-198, § 104, 43 DCR 4569; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Gross sales tax, exemptions, sales of personal property purchased by a digital audio radio satellite service company, see § 47-2005.

**Prior Codifications.** — 1981 Ed., § 47-2501.1.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 110(a) of Omnibus Budget Support Temporary Act of 1992 (D.C. Law 9-134, July 23, 1992, law notification 39 DCR 5815).

For temporary (225 day) amendment of section, see § 104 of Fiscal Year 1997 Budget Support Temporary Amendment Act of 1996 (D.C. Law 12-4, May 23, 1997, law notification 44 DCR 3718).

**Emergency legislation.** — For temporary amendment of section, see § 106 of the Fiscal Year 1997 Budget Support Emergency Act of 1996 (D.C. Act 11-302, July 25, 1996, 43 DCR 4181).

For temporary repeal of § 106 of D.C. Act 11-360, see § 2(d) of the Fiscal Year 1997 Budget Support Emergency Amendment Act of 1997 (D.C. Act 12-37, March 18, 1997, 44 DCR 1935).

**Legislative history of Law 9-145.** — Law 9-145, the "Omnibus Budget Support Act of 1992," was introduced in Council and assigned Bill No. 9-222, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 12, 1992, and June 2, 1992, respectively. Approved without the signature of the Mayor on June 22, 1992, it was assigned Act No. 9-225 and transmitted to both Houses of Congress for its review. D.C. Law 9-145 became effective on September 10, 1992.

**Legislative history of Law 9-177.** — Law 9-177, the "Real Property Tax Rates for Tax Year 1993 and Real Property Tax Revision and Reclassification Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-563, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 23, 1992, and July 7, 1992, respectively. Signed by the Mayor on July 28, 1992, it was assigned Act No. 9-283 and transmitted to both Houses of Congress for its review. D.C. Law 9-177 became effective on October 7, 1992.

**Legislative history of Law 10-128.** — For legislative history of D.C. Law 10-128, see Historical and Statutory Notes following § 47-2501.

**Legislative history of Law 10-255.** — Law 10-255, the "Technical Amendments Act of 1994," was introduced in Council and assigned Bill No. 10-673, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 25, 1994, it was assigned Act No. 10-302 and transmitted to both Houses of Congress for its review. D.C. Law 10-255 became effective May 16, 1995.

**Legislative history of Law 11-198** — Law 11-198, the "Fiscal Year 1997 Budget Support Act of 1996," was introduced in Council and assigned Bill No. 11-741, which was referred to the Committee on the Whole. The Bill was adopted on first and second readings on June 19, 1996, and July 3, 1996, respectively. Signed by the Mayor on July 26, 1996, it was assigned Act No. 11-360 and transmitted to both Houses of Congress for its review. D.C. Law 11-198 became effective on April 9, 1997.

## § 47-2502. Bonding, title, guaranty and fidelity companies.

All companies, incorporated or otherwise, who guarantee the fidelity of any individual or individuals, such as bonding companies, and all companies who furnish abstracts of titles to real property, or who insure real estate titles, shall pay to the Collector of Taxes of the District of Columbia 3% of their gross receipts in the District of Columbia.

(July 1, 1902, 32 Stat. 619, ch. 1352, § 6, par. 6; Apr. 28, 1904, 33 Stat. 564, ch. 1815; Oct. 21, 1975, D.C. Law 1-23, title V, § 501(a)(2), 22 DCR 2105; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)



**Prior Codifications.** — 1981 Ed., § 47-2502.

1973 Ed., § 47-1702.

**Legislative history of Law 1-23.** — For legislative history of D.C. Law 1-23, see Historical and Statutory Notes following § 47-2501.

**Editor's notes.** — Office of Collector of Taxes abolished: See Historical and Statutory Notes following § 47-401.

## CASE NOTES

### In general.

Delaware title insurance company which transacted all its business in the District of Columbia but whose business related entirely to Maryland land was taxable under statute imposing on title insurance companies and cer-

tain others a tax of one and one-half percentum of their gross receipts in the District of Columbia. D.C. Code 1940, § 47-1702. *Suburban Title & Inv. Corp. v. District of Columbia*, 180 F.2d 387, 1950 U.S. App. LEXIS 2429 (C.A.D.C. 1950).

## § 47-2503. Private banks.

Private banks or bankers not incorporated shall pay a tax of \$500 per annum. Every person, firm, company, or association not incorporated having a place of business where credits are opened by the deposit or collection of moneys or currency subject to be paid or remitted upon draft, check, or order, or where money is advanced or loaned on stocks, bonds, bullion, bills of exchange, or promissory notes, or where stocks, bonds, bills of exchange, or promissory notes are received for discount or for sale, shall be regarded as a private bank or banker.

(July 1, 1902, 32 Stat. 621, ch. 1352, § 6, par. 14; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2503.

1973 Ed., § 47-1706.

## § 47-2504. Washington Stock Exchange.

The Washington Stock Exchange, through its president or treasurer, shall pay to the Collector of Taxes of the District of Columbia a sum equal to \$500 per annum in lieu of tax on the members thereof for business done on said exchange.

(July 1, 1902, 32 Stat. 622, ch. 1352, § 6, par. 15; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2504.

1973 Ed., § 47-1707.

**Editor's notes.** — Office of Collector of Taxes abolished: See Historical and Statutory Notes following § 47-401.

## § 47-2505. Note brokers.

Note brokers shall pay a tax of \$100 per annum. Every person, firm, company, or association not incorporated (except private banks and bankers) that loans money on promissory notes without real estate or collateral security or advances money on personal property as security without possession of said personal property shall be deemed a note broker; provided, that exception shall

be made of cooperative associations whose business is restricted to the members of such association.

(July 1, 1902, 32 Stat. 622, ch. 1352, § 6, par. 16; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2505.

1973 Ed., § 47-1708.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2302(a) of the Fiscal Year 2001 Budget Support Congressional Review Emergency Act of 2000 (D.C. Act 13-438, October 6, 2000, 47 DCR 8740).

For temporary (90 day) amendment of section, see § 4(c) of the Gallery Place Economic Development Emergency Amendment Act of 2000 (D.C. Act 13-500, December 1, 2000, 48 DCR 562).

## § 47-2506. Payment of tax by private banks and note brokers.

The taxes for said private banks and bankers, and note brokers shall be paid to the Collector of Taxes of the District of Columbia, and shall date from the first day of July in each year and expire on the 30th day of June following. Said taxes shall date from the first day of the month in which the liability begins, and payment shall be made for a proportionate amount.

(July 1, 1902, 32 Stat. 622, ch. 1352, § 6, par. 17; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2506.

1973 Ed., § 47-1709.

**Editor's notes.** — Office of Collector of Taxes abolished: See Historical and Statutory Notes following § 47-401.

## § 47-2507. Transitional rules for taxing financial institutions.

(a) *Short period.* —

(1) For financial institutions with a federal taxable year ending on a date other than June 30th, a short period return must be filed and the tax computed in accordance with § 47-2501 for the period from July 1, 1981, to the end of the taxpayer's tax year for federal income tax purposes (federal tax year).

(2) The short period return required in paragraph (1) of this subsection shall be filed on or before the last day of the month following the close of the taxpayer's federal tax year.

(3) Financial institutions required to file a return as described in this subsection are required to make estimated tax payments as follows:

(A) Pay an amount in the short period divided by 12 multiplied by the amount of its tax liability as of June 30, 1980;

(B) If the taxpayer's short period is 9 months or less, no additional estimated tax payment is due; and

(C) If the taxpayer's short period is more than 9 months, a second estimated tax payment is due March 31, 1982, in an amount computed in subparagraph (A) of this paragraph.



(b) *Transition period.* —

(1)(A) The first transition year is a financial institution's first full taxable year for federal income tax purposes beginning on or after July 1, 1981.

(B) A taxable year for purposes of this subsection is a 12-month period.

(2)(A) For each of the 3 transition years, each financial institution shall calculate its tax liability and file returns under both the gross earnings tax and the franchise tax for the 3 taxable years of the transition period. Each financial institution shall calculate its tax liability as follows:

(i) For the first transition year, the franchise tax plus 100% of the difference between the total of the franchise tax plus the personal property tax and the gross earnings tax computed for the same taxable year; provided, that the computed gross earnings tax is greater than the total of the franchise tax plus the personal property tax; and

(ii) For the 2nd transition year, the franchise tax plus 66  $\frac{2}{3}$ % of the difference between the total of the franchise tax plus the personal property tax and the gross earnings tax computed for the same taxable year; provided, that the computed gross earnings tax is greater than the total of the franchise tax plus the personal property tax;

(iii) For the 3rd transition year, the franchise tax plus 33  $\frac{1}{3}$ % of the difference between the total of the franchise tax plus the personal property tax and the gross earnings tax computed for the same taxable year; provided, that the computed gross earnings tax is greater than the total of the franchise tax plus the personal property tax.

(B) In no event shall the total tax levied be less than the franchise tax plus the personal property tax. Any gross earnings tax paid or accrued under the provisions of this section shall not be allowed as a deduction in arriving at the franchise tax liability.

(3)(A) During the 3-year transition period described in paragraph (2) of this subsection, every financial institution shall make and file a declaration of estimated tax at such time or times and under such conditions, and shall make payments of such tax during its taxable year in such amounts and under such conditions as prescribed in § 47-1812.14 and regulations relating thereto.

(B) For every financial institution required to file a gross earnings tax return and a franchise tax return under the 3-year transition period described in paragraph (2) of this subsection, the underpayment of estimated taxes pursuant to § 47-1812.14(b) for each taxable year within the transition period shall be the excess of:

(i) The cumulative amount of the installments of estimated franchise taxes and gross earnings taxes which would be required to be paid if the estimated taxes were equal to 80% of the sum of the taxes shown on the franchise tax return for the taxable year and the gross earnings tax return for the taxable year, or if a franchise tax return or a gross earnings tax return or both were not filed for the taxable year, 80% of the total franchise taxes and gross earnings taxes for such year, over

(ii) The cumulative amount of installments paid for gross earning taxes for the taxable year plus the cumulative amount of installments paid for franchise taxes for the taxable year on or before the date prescribed for payment pursuant to law or regulation.

(C) After the 3-year transition period, the gross earnings tax provided by § 47-2501 shall not apply to financial institutions and each financial institution shall be subject to the franchise tax as provided by Chapter 18 of this title.

(c) *Gross earnings tax return filing.* — The gross earnings required for each of the 3 transition years shall be filed with the Mayor on or before the 15th day of March in each year; except, that such returns, if made on the basis of a fiscal year, shall be filed on or before the 15th day of the 3rd month following the close of such fiscal year. During the transition period referred to in subsection (b), there shall be excluded from the gross earnings tax and franchise tax computation all earnings resulting from any IBF time deposit or IBF loan.

(d) *Filing extension.* — The Mayor may grant a reasonable extension of time for filing the returns required by subsection (c) of this section whenever in his judgment good cause exists therefor, and he shall keep a record of every such extension. Except in the case of a taxpayer who is not within the continental limits of the United States, no extension shall be granted for more than 6 months, and in no case shall such extension be granted for more than 1 year.

(July 1, 1902, 32 Stat. 622, ch. 1352, § 6, par. 20; Sept. 13, 1980, D.C. Law 3-95, § 301, 27 DCR 3509; July 24, 1982, D.C. Law 4-130, § 3, 29 DCR 2412; Sept. 17, 1982, D.C. Law 4-150, § 201, 29 DCR 3377; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR)

**Cross references.** — Income and franchise taxes, declaration of estimated tax by corporations, financial institutions, and unincorporated businesses, see § 47-1812.14.

Tax on corporations and financial institutions, same—levy and rates, subject to transition rules, see § 47-1807.02.

**Section references.** — This section is referred to in § 47-2515.

**Prior Codifications.** — 1981 Ed., § 47-2507.

**Legislative history of Law 3-95.** — For legislative history of D.C. Law 3-95, see Historical and Statutory Notes following § 47-2510.

**Legislative history of Law 4-130.** — Law 4-130, the “Technical Amendments to the District of Columbia Financial Institutions Tax Act of 1980 and alley closing in square 569 Amendment Act of 1982,” was introduced in Council and assigned Bill No. 4-328, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 27, 1982 and May 11, 1982, respectively. Signed by the Mayor on June 1, 1982, it

was assigned Act No. 4-195 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 4-150.** — Law 4-150, the “International Banking Facilities Tax District of Columbia Redevelopment Act of 1945 Amendment, and Cable Television Communications Act of 1981 Technical Clarification Amendment Act of 1982,” was introduced in Council and assigned Bill No. 4-360, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 22, 1982 and July 6, 1982, respectively. Signed by the Mayor on July 21, 1982, it was assigned Act No. 4-221 and transmitted to both Houses of Congress for its review.

**Editor’s notes.** — Mayor authorized to issue regulations: Section 401 of D.C. Law 4-150 provided that the Mayor shall issue regulations necessary to carry out the provisions of the act.

Mayor authorized to issue rules: Section 1102 of D.C. Law 5-14 provided that the Mayor shall issue rules necessary to carry out the provisions of the act.

## § 47-2508. Applicability of acts of Congress to national banks in the District of Columbia.

The provisions of all acts of Congress relating to national banks shall apply in the several states, the District of Columbia, the several territories and possessions of the United States, and the Commonwealth of Puerto Rico.



(Sept. 8, 1959, 73 Stat. 458, Pub. L. 86-230, § 14; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2508. 1973 Ed., § 47-1710.

## § 47-2509. Declaration and payment of estimated tax.

Every bank, trust company, and building association, and all bonding, title, guaranty and fidelity companies, subject to the provisions of § 501(a) of the Revenue Act of 1975, shall make and file a declaration of estimated tax at such time or times and under such conditions, and shall make payments of such tax in such amounts and at such times and under such conditions as the Mayor shall, by rule, prescribe. Such payments shall not be in excess of the amount by which said tax was increased by provisions of this act.

(Oct. 21, 1975, D.C. Law 1-23, title V, § 501(b), 22 DCR 2091; Nov. 1, 1975, D.C. Law 1-30, § 2, 22 DCR 2545; June 22, 1983, D.C. Law 5-14, § 103, 30 DCR 2632; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2509.

1973 Ed., § 47-1711.

**Legislative history of Law 1-30.** — Law 1-30, the “District of Columbia Revenue Act of 1971,” was introduced in Council and assigned Bill No. 1-156, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on July 15, 1975 and July 29, 1975, respectively. Signed by the Mayor on August 13, 1975, it was assigned Act No. 1-42 and transmitted to both Houses of Congress for its review.

**References in text.** — “The Revenue Act of

1975” and “this act,” referred to in this section, are references to D.C. Law 1-23, 22 DCR 2091, approved October 21, 1975.

Section 501(a)(1) and 501(a)(2) of the Revenue Act of 1975, are codified as §§ 47-2501 and 47-2502, respectively.

**Delegation of Authority.** — Delegation of authority under Law 5-14, see Mayor’s Order 83-190, July 25, 1983.

**Editor’s notes.** — Mayor authorized to issue rules: Section 1102 of D.C. Law 5-14 provided that the Mayor shall issue rules necessary to carry out the provisions of the act.

## § 47-2510. Personal property tax provisions applicable to financial institutions.

Notwithstanding any other provision of law, financial institutions, as defined in § 47-1801.04, shall be subject to the applicable personal property tax provisions of Chapters 15 and 16 [repealed] of this title and of Chapter 17 [repealed] of this title and shall be liable for the payment of taxes on such personal property. This section shall take effect as to taxable property held on July 1, 1981, and on July 1st of each succeeding year.

(Sept. 13, 1980, D.C. Law 3-95, § 401, 27 DCR 3509; July 24, 1982, D.C. Law 4-130, § 4, 29 DCR 2412; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2510.

**Legislative history of Law 3-95.** — Law 3-95, the “District of Columbia Financial Institutions Tax Act of 1980,” was introduced in

Council and assigned Bill No. 3-190, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 3, 1980 and June 17, 1980, respectively. Signed by the Mayor on July

9, 1980, it was assigned Act No. 3-217 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 4-130.** — For

legislative history of D.C. Law 4-130, see Historical and Statutory Notes following § 47-2507.

### CASE NOTES

**In general.**

The Federal Credit Union Act did not preclude the District of Columbia from taxing personal property of federal credit unions; other similar financial institutions were subject to personal property tax. Federal Credit Union

Act, §§ 1 et seq., 122, as amended, 12 U.S.C. §§ 1751 et seq., 1768; D.C. Code 1981, §§ 47-1501 et seq., 47-1801.4(25), 47-2510. *Georgetown University Employees Federal Credit Union v. District of Columbia*, 525 A.2d 1014, 1986 D.C. App. LEXIS 503 (1986).

### § 47-2511. Severability.

If any provision of this chapter, or application thereof, to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

(Sept. 13, 1980, D.C. Law 3-95, § 402, 27 DCR 3509; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2511.

**Legislative history of Law 3-95.** — For

legislative history of D.C. Law 3-95, see Historical and Statutory Notes following § 47-2510.

### § 47-2512. Savings clause.

(a) *Existing rights and liabilities.* — The repeal or amendment of any provision of this chapter, shall not affect any act done or any right accruing or accrued, or any suit or proceeding had or commenced in any civil cause before such repeal or amendment, but all rights and liabilities under this chapter shall continue, and may be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

(b) *Offenses and penalties.* — All offenses committed and penalties incurred, under any provision of law hereby repealed or amended, may be prosecuted and punished in the same manner and with the same effect as if this chapter had not been enacted.

(Sept. 13, 1980, D.C. Law 3-95, § 403, 27 DCR 3509; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2512.

**Legislative history of Law 3-95.** — For

legislative history of D.C. Law 3-95, see Historical and Statutory Notes following § 47-2510.

### § 47-2513. Rules and regulations.

The Mayor of the District of Columbia is authorized to promulgate rules and regulations to carry out the provisions of this chapter.



(Sept. 13, 1980, D.C. Law 3-95, § 404, 27 DCR 3509; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2513. legislative history of D.C. Law 3-95, see Historical and Statutory Notes following § 47-2510.

**Legislative history of Law 3-95.** — For

## § 47-2514. Real property tax provisions applicable to financial institutions.

Notwithstanding any other provision of law, financial institutions, as defined in § 47-1801.04 shall be subject to the applicable real property tax provisions of the following laws (1) Chapter 7 of this title, (2) Chapter 6 of this title, (3) Chapter 5 of this title, (4) §§ 47-829 to 47-841, (5) Chapter 13 of this title, (6) Chapter 12 of this title, and (7) Chapter 10 of this title, and shall be liable for the payment of taxes on such real property.

(Sept. 13, 1980, D.C. Law 3-95, § 405, 27 DCR 3509; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2514. legislative history of D.C. Law 3-95, see Historical and Statutory Notes following § 47-2510.

**Legislative history of Law 3-95.** — For

## § 47-2515. Effective date.

The provisions of this chapter (relating to repeal of the gross earnings tax applicable to financial institutions) will be effective for financial institutions beginning with the federal taxable year following the 3-year transition period described in § 47-2507. All other provisions of this chapter shall take effect on September 13, 1980.

(Sept. 13, 1980, D.C. Law 3-95, § 501, 27 DCR 3509; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2515. legislative history of D.C. Law 3-95, see Historical and Statutory Notes following § 47-2510.

**Legislative history of Law 3-95.** — For

CHAPTER 26. INSURANCE COMPANIES.

Sec.

47-2601. Definitions.

47-2602. Domicile of insurer organized in foreign country.

47-2603. Licenses; fee; term.

47-2604. Penalty for engaging in business without license or certificate of authority.

47-2605. Prosecutions.

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Sec.

47-2608. Rates on insurance companies; exceptions; marine insurance excluded; payment schedule; revocation of certificate of authority for failure to pay tax.

47-2608.01. [Repealed].

47-2609. Liability for failure to pay tax.

47-2610. Reciprocity.

47-2611. Exemption of nonprofit relief associations.

§ 47-2601. Definitions.

For the purposes of this chapter, the term:

(1) "Alien" means organized under the laws of any country other than the United States or a territory or insular possession of the United States.

(2) "District" means the District of Columbia.

(3) "Domestic" means organized under the laws of the District of Columbia or under federal legislation.

(4) "Foreign" means organized under the laws of any state of the United States, or of any territory or insular possession of the United States.

(5) "Foreign country" means a country where an insurer, not organized under the laws of the United States, is organized or formally located.

(6) "Mayor" means the Mayor of the District of Columbia.

(7) "Net premium receipts" or "consideration received" means gross premiums or consideration received less the sum of the following:

(A) Premiums received for reinsurance assumed and consideration returned on contracts not taken or cancelled; and

(B) Dividends paid in cash or used by policyholders to pay renewal premiums.

(8) "State" means the Commonwealth of Puerto Rico, a state in the United States of America, or a United States possession or territory other than the District of Columbia.

(Aug. 17, 1937, ch. 690, title II, § 1, as added Sept. 26, 1984, D.C. Law 5-113, § 401, 31 DCR 3974; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2601.

**Legislative history of Law 5-113.** — Law 5-113, the "District of Columbia Revenue Act of 1984," was introduced in Council and assigned Bill No. 5-370, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 26, 1984 and July 10, 1984, respectively. Signed by the Mayor on July 13, 1984, it was assigned Act No. 5-164 and transmitted to both Houses of Congress for its review.

**Editor's notes.** — Mayor authorized to issue rules: Section 12 of Title 2 of the Act of August 17, 1937, as added by § 401 of D.C. Law 5-113, provided that the Mayor shall issue rules to implement the provisions of this chapter pursuant to subchapter I of Chapter 5 of Title 2.

Mayor authorized to issue rules: Section 901 of D.C. Law 5-113 provided that the Mayor shall issue rules to implement the provisions of the act pursuant to subchapter I of Chapter 15 of Title 1.



## § 47-2602. Domicile of insurer organized in foreign country.

Except for insurers organized under the laws of Canada, the domicile of an insurer organized or formally located in a foreign country shall be the insurer's principal place of business in the United States of America. The domicile of a Canadian insurer shall be the Canadian province where the insurer's headquarters are located.

(Aug. 17, 1937, ch. 690, title II, § 2, as added Sept. 26, 1984, D.C. Law 5-113, § 401, 31 DCR 3974; Oct. 5, 1985, D.C. Law 6-42, § 453, 32 DCR 4450; Mar. 8, 1991, D.C. Law 8-237, § 2(t), 38 DCR 314; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2602.

**Legislative history of Law 5-113.** — For legislative history of D.C. Law 5-113, see Historical and Statutory Notes following § 47-2601.

**Legislative history of Law 6-42.** — Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 8-237.** — Law 8-237, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 Technical and Clarifying Amendments Act of 1990," was introduced in Council and assigned Bill No. 8-203, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-320 and transmitted to both Houses of Congress for its review.

**Editor's notes.** — Mayor authorized to issue rules: See notes to § 47-2601.

## § 47-2603. Licenses; fee; term.

(a) On and after the first day of September 1937, every domestic, foreign, or alien company organized as a stock, mutual, reciprocal, Lloyd's fraternal, or any other type of insurance company or association, before issuing contracts of insurance against loss of life or health, or by fire, marine, accident, casualty, fidelity and surety, title guaranty, or other hazard not contrary to public policy, shall obtain from the Commissioner of Insurance and Securities [Commissioner of the Department of Insurance, Securities, and Banking] of the District of Columbia an annual license or certificate of authority, upon payment of a fee of \$100 per year or fraction thereof to the District of Columbia and collected by the Commissioner of Insurance and Securities [Commissioner of the Department of Insurance, Securities, and Banking]. All licenses for insurance companies who may apply for permission to do business in the District of Columbia shall date from the first of the month in which application is made, and expire on the 30th day of April following.

(b) Any license issued pursuant to this chapter shall be issued as a Financial Services endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of Chapter 28 of this title.

(Aug. 17, 1937, 50 Stat. 675, ch. 690, title II, § 1; Feb. 23, 1980, D.C. Law 3-52, § 7, 27 DCR 26; renumbered as § 3 and amended, Sept. 26, 1984, D.C. Law

5-113, § 401, 31 DCR 3974; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; May 21, 1997, D.C. Law 11-268, § 10(jj), 44 DCR 1730; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(4), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(2), 50 DCR 6913.)

**Cross references.** — Insurance department, Commissioner of Insurance and Securities, powers and duties, see § 31-202.

**Section references.** — This section is referred to in § 47-2608.

**Prior Codifications.** — 1981 Ed., § 47-2603.

1973 Ed., § 47-1801.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (b), substituted “Financial Services endorsement to a basic business license under the basic” for “Class A Financial Services endorsement to a master business license under the master”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(hh)(2) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 3-52.** — Law 3-52, the “District of Columbia Insurance Act Amendments of 1979,” was introduced in Council and assigned Bill No. 3-53, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on November 20, 1979, and December 4, 1979, respectively. Signed by the Mayor on December 21, 1979, it was assigned Act No. 3-142 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 5-113.** — For legislative history of D.C. Law 5-113, see Historical and Statutory Notes following § 47-2601.

**Legislative history of Law 11-268.** — Law 11-268, the “Department of Insurance and Securities Regulation Establishment Act of 1996,” was introduced in Council and assigned Bill No. 11-415, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 30, 1996, it was assigned Act No. 11-524 and transmitted to both Houses of Congress for its review. D.C. Law 11-268 became effective on May 21, 1997.

**Legislative history of Law 12-261.** — Law 12-261, the “Second Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15,

1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

**Editor’s notes.** — Department of Insurance abolished: The Department of Insurance, including the Superintendent, was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. Reorganization Order No. 43, dated June 23, 1953, as amended, established under the direction and control of a Commissioner, a Department of Insurance headed by a Superintendent. The Order provided for the organization of the Department, abolished the previously existing Department of Insurance, and provided that all functions and positions of the previous Department would be transferred to the new Department of Insurance, including the duties, powers, and authorities of all officers and employees, and that all personnel, property, records and unexpended balances relating to the functions and positions transferred would also be transferred to the new Department. This Order was issued pursuant to Reorganization Plan No. 5 of 1952. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Pursuant to the provisions of D.C. Law 11- (Act 11-524), the Department of Insurance and Securities Regulation was established and the duties of the Superintendent of Insurance and the Insurance Administration were assumed by the Commissioner of Insurance and Securities, and the Insurance Administration in the Department of Consumer and Regulatory Affairs was abolished. Pursuant to the provisions of D.C. Law 11- (Act 11-524), the Department of Insurance and Securities Regulation was established and the duties of the Superintendent of Insurance and the Insurance Administration were assumed by the Commissioner of Insurance and Securities and the Insurance Administration in the Department of Consumer and Regulatory Affairs was abolished.

Mayor authorized to issue rules: See notes to § 47-2601.



## § 47-2604. Penalty for engaging in business without license or certificate of authority.

Any such company issuing contracts of insurance in the District of Columbia, without first having obtained license or certificate of authority from the Commissioner of Insurance and Securities [Commissioner of the Department of Insurance, Securities, and Banking] so to do, shall upon conviction be subject to a fine of \$100 per day for each day it shall engage in business without such license or certificate of authority. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of this chapter, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this chapter shall be pursuant to Chapter 18 of Title 2.

(Aug. 17, 1937, 50 Stat. 675, ch. 690, title II, § 2; renumbered as § 4, Sept. 26, 1984, D.C. Law 5-113, § 401, 31 DCR 3974; Mar. 8, 1991, D.C. Law 8-237, § 2(t), 38 DCR 314; enacted Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; May 21, 1997, D.C. Law 11-268, § 10(jj), 44 DCR 1730.)

**Prior Codifications.** — 1981 Ed., § 47-2604.

1973 Ed., § 47-1802.

**Legislative history of Law 5-113.** — For legislative history of D.C. Law 5-113, see Historical and Statutory Notes following § 47-2601.

**Legislative history of Law 8-237.** — For legislative history of D.C. Law 8-237, see Historical and Statutory Notes following § 47-2602.

For legislative history of D.C. Law 11- (Act 11-524), see Historical and Statutory Notes following § 47-2603.

**Editor's notes.** — Mayor authorized to issue rules: See notes to § 47-2601.

Department of Insurance abolished: See Historical and Statutory Notes following § 47-2603.

## § 47-2605. Prosecutions.

All prosecutions for violations of this chapter shall be in the Superior Court of the District of Columbia by the Attorney General for the District of Columbia or any of his assistants.

(Aug. 17, 1937, 50 Stat. 675, ch. 690, title II, § 3; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); renumbered as § 5, Sept. 26, 1984, D.C. Law 5-113, § 401, 31 DCR 3974; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 13, 2005, D.C. Law 15-354, § 73(j), 52 DCR 2638.)

**Cross references.** — Criminal procedure, conduct of prosecutions, see § 23-101.

**Prior Codifications.** — 1981 Ed., § 47-2605.

1973 Ed., § 47-1803.

**Effect of amendments.** — D.C. Law 15-354 substituted "Attorney General for the District of Columbia" for "Corporation Counsel".

**Legislative history of Law 5-113.** — For legislative history of D.C. Law 5-113, see Historical and Statutory Notes following § 47-2601.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

**Editor's notes.** — Mayor authorized to issue rules: See notes to § 47-2601.

**§ 47-2606. Annual statements; filing fee.**

Each of such companies shall file an annual statement, in the form prescribed by the Superintendent, before March 1 of each year, of its operations for the year ending December 31 immediately preceding. Such statement shall be verified by oath of the president and secretary or in their absence by 2 other principal officers. The fee for filing said statement shall be \$50 and payment thereof shall be collected by the Superintendent and made payable to the District of Columbia.

(Aug. 17, 1937, 50 Stat. 675, ch. 690, title II, § 4; Feb. 23, 1980, D.C. Law 3-52, § 8, 27 DCR 26; renumbered as § 6, Sept. 26, 1984, D.C. Law 5-113, § 401, 31 DCR 3974; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2606.

1973 Ed., § 47-1804.

**Legislative history of Law 3-52.** — For legislative history of D.C. Law 3-52, see Historical and Statutory Notes following § 47-2603.

**Legislative history of Law 5-113.** — For legislative history of D.C. Law 5-113, see His-

torical and Statutory Notes following § 47-2601.

**Editor's notes.** — Mayor authorized to issue rules: See notes to § 47-2601.

Department of Insurance abolished: See Historical and Statutory Notes following § 47-2603.

**§ 47-2607. Revocation of license for failure to file statement.**

If any such company shall fail to file the annual statement herein required, the Commissioner of Insurance and Securities [Commissioner of the Department of Insurance, Securities, and Banking] may thereupon revoke its license or certificate of authority to transact business in the District of Columbia.

(Aug. 17, 1937, 50 Stat. 676, ch. 690, title II, § 5; renumbered as § 7, Sept. 26, 1984, D.C. Law 5-113, § 401, 31 DCR 3974; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; May 21, 1997, D.C. Law 11-268, § 10(jj), 44 DCR 1730.)

**Prior Codifications.** — 1981 Ed., § 47-2607.

1973 Ed., § 47-1805.

**Legislative history of Law 5-113.** — For legislative history of D.C. Law 5-113, see Historical and Statutory Notes following § 47-2601.

For legislative history of D.C. Law 11- (Act

11-524), see Historical and Statutory Notes following § 47-2603.

**Editor's notes.** — Mayor authorized to issue rules: See notes to § 47-2601.

Department of Insurance abolished: See Historical and Statutory Notes following § 47-2603.

**§ 47-2608. Rates on insurance companies; exceptions; marine insurance excluded; payment schedule; revocation of certificate of authority for failure to pay tax.**

(a)(1) Except as provided in paragraph (1A) of this subsection, all such companies, including companies which issue annuity contracts, shall also pay to the District of Columbia, for each calendar year, a sum of money as taxes



equal to 2% of their policy and membership fees and net premium receipts or consideration received in such calendar year on all insurance and annuity contracts on risks in the District of Columbia. Such tax shall be in lieu of all other taxes except:

(A) Taxes upon real estate; and

(B) Fees and charges provided for by the insurance laws of the District including amendments made to such laws by this chapter.

(1A)(A) All companies that issue contracts of insurance against accident and loss of health shall pay to the District of Columbia, for each calendar year, a sum of money as taxes equal to 2% of their policy and membership fees and net premium receipts or consideration received in that calendar year on all policies or contracts in the District of Columbia. Such tax shall be in lieu of all other taxes except:

(i) Taxes upon real estate; and

(ii) Fees and charges provided for by the insurance laws of the District.

(B) This paragraph shall apply as of October 1, 2008.

(2) Net premium receipts or consideration received means gross premiums or consideration received, not including premiums received in connection with a tax exempt "pension business" as defined in section 1012(c)(4)(D) of the Tax Reform Act of 1986 (26 U.S.C. § 833, note), by a corporation referred to in section 1012(c)(4)(B) of the Tax Reform Act of 1986, less the sum of the following:

(A) Premiums received for reinsurance assumed and premiums or consideration returned on policies or contracts cancelled or not taken; and

(B) Dividends paid in cash or used by the policyholders in payment of renewal premiums.

(C) All premiums received from policies or contracts issued in connection with a pension, annuity, profit-sharing plan or individual retirement annuity qualified or exempt under section 401, 403, 404, 408, or 501(a) of the Internal Revenue Code, or successor provisions.

(3) Nothing contained in this section or in § 47-2603 or § 47-2609 shall apply with respect to marine insurance written within the said District and reported, taxed, and licensed under Chapter 26 of Title 31.

(a-1) A hospital service corporation or medical service corporation may deduct, in an amount not to exceed \$550,000, the corporation's payment to the rate stabilization fund under § 31-3514 and payments and expenditures pursuant to a public-private partnership entered into in accordance with the provisions of Chapter 5 of Title 31 from the amount otherwise due by the corporation under subsection (a) of this section.

(b)(1) The tax imposed by subsection (a) of this section shall, for each calendar year prior to calendar year 1977, be paid before the first day of March of the next succeeding calendar year.

(2) Except as provided in paragraph (3) of this subsection, the tax imposed for calendar year 1999, and for each calendar year thereafter, shall be paid on or before the first day of June of the calendar year in which the income to be taxed is received and before the first day of March following the close of each

calendar year. The June payment shall be an amount equal to 1/2 of the total premium tax liability determined for the preceding calendar year. In accordance with rules prescribed by the Mayor, each company shall determine its total tax liability for each calendar year and pay the remainder, if any, on or before the first day of March following the close of each calendar year. Overpayments of tax may be refunded to the company or credited to the company's next installment payment, at the election of the company.

(3) The installment payment provision of subsection (b)(2) of this section shall not apply in the case of any company having a tax liability for the preceding calendar year less than \$1,000. In such cases the tax shall be paid on or before the first day of March following the close of the calendar year.

(c) The certificate of authority of any company may be revoked for failure to pay the tax required by this chapter.

(Aug. 17, 1937, 50 Stat. 676, ch. 690, title II, § 6; May 16, 1938, 52 Stat. 358, ch. 223, § 2; Apr. 19, 1977, D.C. Law 1-124, title X, § 1000, 23 DCR 8749; Sept. 23, 1977, D.C. Law 2-19, § 3, 24 DCR 3338; renumbered as § 8, Sept. 26, 1984, D.C. Law 5-113, § 401, 31 DCR 3974; Sept. 10, 1992, D.C. Law 9-145, § 111, 39 DCR 4895; Mar. 17, 1993, D.C. Law 9-224, § 2, 40 DCR 592; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 29, 1998, D.C. Law 12-86, § 202, 45 DCR 1172; Apr. 20, 1999, D.C. Law 12-264, § 52(q), 46 DCR 2118; Mar. 2, 2007, D.C. Law 16-192, § 5013(b)(2), 53 DCR 6899; Aug. 16, 2008, D.C. Law 17-219, § 5055(b), 55 DCR 7598; Feb. 4, 2010, D.C. Law 18-104, § 4(c), 56 DCR 9182; Sept. 24, 2010, D.C. Law 18-223, § 2183, 57 DCR 6242.)

**Cross references.** — Hospital and medical services corporation regulation, conversion to a mutual company, open enrollment program, see § 31-3516.

Hospital and medical services corporation regulation, conversion to a stock company, open enrollment program, see § 31-3515.

Hospital and medical services corporation regulation, open enrollment, effect on premium tax rate, see § 31-3514.

**Prior Codifications.** — 1981 Ed., § 47-2608.

1973 Ed., § 47-1806.

**Effect of amendments.** — D.C. Law 16-192 added subsec. (a-1).

D.C. Law 17-219, in subsec. (a), inserted "Except as provided in paragraph (1A)," in par. (1), and added par. (1A).

D.C. Law 18-104, in subsec. (a-1), substituted "payment to the rate stabilization fund under § 31-3514 and payments and expenditures pursuant to a public-private partnership entered into in accordance with the provisions of Chapter 5 of Title 31" for "payment to the rate stabilization fund under § 31-3514".

D.C. Law 18-223, in subsec. (a)(1), substituted "2%" for "1.7%".

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 111 of Omnibus Budget Support Tempo-

rary Act of 1992 (D.C. Law 9-134, July 23, 1992, law notification 39 DCR 5815).

For temporary (225 day) amendment to § 203 of D.C. Law 12-86, see § 502 of Health Insurance Portability and Accountability Federal Law Conformity, Motor Vehicle Insurance, Regulatory Reform, and Consumer Law Temporary Amendment Act of 1998 (D.C. Law 12-154, September 18, 1998, law notification 45 DCR 6951).

**Temporary Amendment of Section.** — Section 4(c) of D.C. Law 18-134 substituted "payment to the rate stabilization fund under § 31-3514 and payments and expenditures pursuant to a public-private partnership entered into in accordance with the provisions of Chapter 5 of Title 31" for "payment to the rate stabilization fund under § 31-3514".

Section 6(b) of D.C. Law 18-134 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary delay of the provisions of § 203 of the Omnibus Regulatory Reform Amendment Act of 1998 (D.C. Law 12-86), see § 502 of the Health Insurance Portability and Accountability Federal Law Conformity Emergency Amendment Act of 1998 (D.C. Act 12-339, May 4, 1998, 45 DCR 2947) and § 502 of the Health Insurance Portability and Accountability Federal Law



Conformity, Motor Vehicle Insurance, Regulatory Reform, and Consumer Law Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-429, August 6, 1998, 45 DCR 5890).

For temporary amendment of section, see § 3(a) of the Child Development Home Promotion Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-604, January 20, 1999, 45 DCR 1281) and § 3(a) of the Child Development Home Promotion Emergency Amendment Act of 1998 (D.C. Act 12-444, October 9, 1998, 45 DCR 7304).

For temporary amendment of section, see § 2(a) of the Regulatory Reform Tax Conformity Emergency Act of 1998 (D.C. Act 12-594, January 20, 1999, 45 DCR 1129), and § 2(a) of the Regulatory Reform Tax Conformity Congressional Review Emergency Act of 1999 (D.C. Act 13-42, March 31, 1999, 46 DCR 3621).

For temporary (90 day) amendment of section, see § 5013(b)(2) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see § 5013(b)(2) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see § 5013(b)(2) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

For temporary (90 day) amendment of section, see § 4(c) of Hospital and Medical Services Corporation Regulatory Emergency Amendment Act of 2009 (D.C. Act 18-277, January 11, 2010, 57 DCR 935).

For temporary (90 day) amendment of section, see § 2183 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

**Legislative history of Law 1-124.** — Law 1-124, the “Revenue Act For Fiscal Year 1978,” was introduced in Council and assigned Bill No. 1-375, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 3, 1976 and December 17, 1976, respectively. Signed by the Mayor on January 25, 1977, it was assigned Act No. 1-226 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 2-19.** — Law 2-19, the “Act to Provide Deductions for Deed Recordation Taxes and Motor Vehicle Fees and for Accelerated Payment of Taxes, Insurance Premium Receipts,” was introduced in Council and assigned Bill No. 2-109, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 17, 1977 and May 31, 1977, respectively. Signed by the Mayor on June 21, 1977, it

was assigned Act No. 2-48 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 5-113.** — For legislative history of D.C. Law 5-113, see Historical and Statutory Notes following § 47-2601.

**Legislative history of Law 9-145.** — Law 9-145, the “Omnibus Budget Support Act of 1992,” was introduced in Council and assigned Bill No. 9-222, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 12, 1992, and June 2, 1992, respectively. Approved without the signature of the Mayor on June 22, 1992, it was assigned Act No. 9-225 and transmitted to both Houses of Congress for its review. D.C. Law 9-145 became effective on September 10, 1992.

**Legislative history of Law 9-224.** — Law 9-224, the “Premium Receipts Tax Clarification Amendment Act of 1992,” was introduced in Council and assigned Bill No. 9-558, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1992, and December 15, 1992, respectively. Signed by the Mayor on January 4, 1993, it was assigned Act No. 9-355 and transmitted to both Houses of Congress for its review. D.C. Law 9-224 became effective on March 17, 1993.

**Legislative history of Law 12-86.** — Law 12-86, the “Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-458, which was referred to the Committee on Public Works and the Environment and the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 19, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 21, 1998, it was assigned Act No. 12-256 and transmitted to both Houses of Congress for its review. D.C. Law 12-86 became effective on April 29, 1998.

**Legislative history of Law 12-264.** — For legislative history of D.C. Law 12-264, see Historical and Statutory Notes following § 47-2608.01.

**Legislative history of Law 16-192.** — Law 16-192, the “Fiscal Year Budget Support Act of 2006,” was introduced in Council and assigned Bill No. 16-679, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 9, 2006, and June 6, 2006, respectively. Signed by the Mayor on August 8, 2006, it was assigned Act No. 16-476 and transmitted to both Houses of Congress for its review. D.C. Law 16-192 became effective on March 2, 2007.

**Legislative history of Law 17-219.** — For Law 17-219, see notes following § 47-318.05a.

**Legislative history of Law 18-104.** — Law 18-104, the “Hospital and Medical Services Corporation Regulatory Amendment Act of

2009", was introduced in Council and assigned Bill No. 18-401, which was referred to the Committee on Public Services and Consumer Affairs. The bill was adopted on first and second readings on October 6, 2009, and November 3, 2009, respectively. Signed by the Mayor on November 30, 2009, it was assigned Act No. 18-239 and transmitted to both Houses of Congress for its review. D.C. Law 18-104 became effective on February 4, 2010.

**Legislative history of Law 18-223.** — For Law 18-223, see notes following § 47-355.05.

**Editor's notes.** — Mayor authorized to issue rules: See notes to § 47-2601.

Section 2184 of D.C. Law 18-223 provided: "Sec. 2184. Sunset. This subtitle shall expire on September 30, 2015."

## CASE NOTES

### In general.

The Navy Mutual Aid Association formed to aid families of deceased members, by providing a substantial sum for their relief at as near actual net cost of insurance as possible, and by securing for them without cost, pensions to which they may be entitled, was subject to the provisions of the Life Insurance Act but not subject to the tax on insurance companies. D.C. Code 1951, §§ 35-301 to 35-803, 47-1801 to 47-1808. *Fechtelor v. Jordan*, 218 F.2d 865, 1955 U.S. App. LEXIS 2856 (C.A.D.C. 1955).

Title insurance companies, whose business consisted solely of issuing either certificates of title or title policies to real estate in District of Columbia and such further incidental transactions as related to such main objectives, were "insurance companies" within statute imposing tax on membership fees and premium receipts of insurance companies in lieu of all other taxes. D.C. Code 1940, §§ 47-1702, 47-1806. *Real Estate Title Ins. Co. v. District of Columbia*, 161 F.2d 887, 1947 U.S. App. LEXIS 2853 (1947).

## § 47-2608.01. Health service corporations. [Repealed].

Repealed.

(Apr. 20, 1999, D.C. Law 12-264, § 52(r), 46 DCR 2118; Mar. 2, 2007, D.C. Law 16-192, § 5013(b)(3), 53 DCR 6899.)

**Prior Codifications.** — 1981 Ed., § 47-2608.1.

**Emergency legislation.** — For temporary addition of this section, see § 2(b) of the Regulatory Reform Tax Conformity Emergency Act of 1998 (D.C. Act 12-594, January 20, 1999, 45 DCR 1129).

For temporary (90 day) repeal of section, see § 5013(b)(3) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) repeal of section, see § 5013(b)(3) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) repeal of section, see

§ 5013(b)(3) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

**Legislative history of Law 12-264.** — Law 12-264, the "Technical Amendments Act of 1998," was introduced in Council and assigned Bill No. 12-804, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on January 7, 1999, it was assigned Act No. 12-626 and transmitted to both Houses of Congress for its review. D.C. Law 12-264 became effective on April 20, 1999.

**Legislative history of Law 16-192.** — For Law 16-192, see notes following § 47-2608.

## § 47-2609. Liability for failure to pay tax.

If any such company shall fail to pay the tax herein required, it shall be liable to the District of Columbia for the amount thereof, and in addition thereof a penalty of 8% per month thereafter until paid.

(Aug. 17, 1937, 50 Stat. 676, ch. 690, title II, § 7; renumbered as § 9, Sept. 26,



1984, D.C. Law 5-113, § 401, 31 DCR 3974; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Insurance department, required annual statement of business from insurance companies, tax payment, annuities exemption, see § 31-205.

**Section references.** — This section is referred to in § 47-2608.

**Prior Codifications.** — 1981 Ed., § 47-2609.

1973 Ed., § 47-1807.

**Legislative history of Law 5-113.** — For legislative history of D.C. Law 5-113, see Historical and Statutory Notes following § 47-2601.

**Editor's notes.** — Mayor authorized to issue rules: See notes to § 47-2601.

## § 47-2610. Reciprocity.

(a)(1) When a state or foreign country charges domestic companies aggregate taxes and fees which exceed the aggregate taxes and fees that the District charges under the same circumstances, then the Mayor may charge, in retaliation, the same taxes and fees to companies of the state or the foreign country when the companies are within the taxing jurisdiction of the District.

(2) When a state or a foreign country charges fines, deposits, or establishes obligations, or the restrictions which the District establishes under the same circumstances, then the Mayor may establish, in retaliation, the same fines, deposits, obligations, or restrictions for companies of the state or the foreign country when the companies are within the jurisdiction of the District.

(b) Subsection (a) of this section shall not apply to the following:

(1) Personal income taxes;

(2) Ad valorem taxes on real or personal property; and

(3) Special assessments charged by a state in connection with insurance, other than property insurance.

(c) The Mayor shall consider the amount of real and personal property taxes deducted from the taxes charged against a domestic company by a foreign jurisdiction when the Mayor determines the propriety and the extent of the retaliatory charges described in subsection (a) of this section.

(Aug. 17, 1937, ch. 690, title II, § 10, as added Sept. 26, 1984, D.C. Law 5-113, § 401, 31 DCR 3974; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Insurance department, required annual statement of business from insurance companies, tax payment, annuities exemption, see § 31-205.

**Prior Codifications.** — 1981 Ed., § 47-2610.

**Legislative history of Law 5-113.** — For legislative history of D.C. Law 5-113, see Historical and Statutory Notes following § 47-2601.

**Editor's notes.** — Mayor authorized to issue rules: See notes to § 47-2601.

## § 47-2611. Exemption of nonprofit relief associations.

Nothing contained in this chapter shall apply to any relief association, not conducted for profit, composed solely of officers and enlisted men of the United States Army, Navy, or Air Force, or solely of employees of any other branch of the United States government service or solely of employees of the District of Columbia government, or solely of employees of any individual, company, firm,

or corporation or to any fraternal organization which issues contracts of insurance exclusively to its own members.

(Aug. 17, 1937, 50 Stat. 676, ch. 690, title II, § 8; renumbered as § 11, Sept. 26, 1984, D.C. Law 5-113, § 401, 31 DCR 3974; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Personal property, disposition when unclaimed, “life insurance corporation” defined, see § 41-102.

**Prior Codifications.** — 1981 Ed., § 47-2611.

1973 Ed., § 47-1808.

**Legislative history of Law 5-113.** — For legislative history of D.C. Law 5-113, see Historical and Statutory Notes following § 47-2601.

**Editor’s notes.** — Mayor authorized to issue rules: See notes to § 47-2601.

## CASE NOTES

### In general.

A group health association incorporated as a non-profit relief association to furnish medical service and supplies in variable degrees within specified limitations to its members who make regular limited payments and are composed solely of civil employees of the executive branch of the United States government service, is not within the purview of laws of the District of Columbia relating to insurance or to organizations providing for the payment of indemnity on account of sickness or accident, particularly in view of provision in by-law that association should not be liable to its members or their dependents for any act of omission or commission on the part of physicians or other persons with whom it may contract for the rendition of services to them. D.C. Code 1929, T. 5, §§ 121-126, 172, 173, 176, 178, 179, 184-215; D.C. Code Supp. III, 1937, T. 20, § 966. *Jordan v. Group Health Ass’n*, 107 F.2d 239, 1939 U.S. App. LEXIS 4670 (1939).

In determining whether a group health association was engaged in the business of insurance in the District of Columbia in violation of law and was within the purview of laws relating to insurance companies, the court was concerned with the plan as a whole and not with artificially segregated single phases of the plan. *Jordan v. Group Health Ass’n*, 107 F.2d 239, 1939 U.S. App. LEXIS 4670 (1939).

A group health association incorporated as a non-profit relief association to furnish medical service and supplies in variable degrees within specified limitations to its members who make

regular limited payments and are composed solely of civil employees of the executive branch of the United States government service, including employees of the Home Owners’ Loan Corporation, falls within provisions of statutes exempting from provisions relating to regulations, licensing, and control of insurance companies, relief associations not conducted for profit composed solely of officers and enlisted men of the army or navy, or solely of employees of any other branch of the United States government service, or solely of employees of any individual company, firm, or corporation, since for purposes of exemption, employees of Home Owners’ Loan Corporation should be held to be employees of the executive department. D.C. Code 1929, T. 5, §§ 121-126, 179; D.C. Code Supp. III, 1937, T. 20, § 966, subsec. 8. *Jordan v. Group Health Ass’n*, 107 F.2d 239, 1939 U.S. App. LEXIS 4670 (1939).

The word “corporation” as used in provisions of statutes exempting from provisions relating to regulation, licensing, and control of insurance companies, relief associations not conducted for profit composed solely of officers and enlisted men of the army or navy, or solely of employees of any other branch of the United States government service, or solely of employees of any individual company, firm, or corporation refers to private concerns and not to governmental agencies, particularly if they are included within preceding classifications. D.C. Code 1929, T. 5, §§ 121-126, 179; D.C. Code Supp. III, 1937, T. 20, § 966, subsec. 8. *Jordan v. Group Health Ass’n*, 107 F.2d 239, 1939 U.S. App. LEXIS 4670 (1939).



# CHAPTER 27. PERMITS AND FEES.

## *Subchapter I. Public Auction Permits*

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## *Subchapter III. Clean Air Compliance Fees*

- 47-2731 to 47-2740. [Repealed].

## *Subchapter I. Public Auction Permits.*

### § 47-2701. Permit required.

(a) Excepting sales made under authority of law, it shall be unlawful in the District of Columbia for any person, firm, or corporation, either for himself or itself, or for another, or for any firm, or corporation to sell or offer at public auction any stock or stocks of merchandise, in whole or in part, without first obtaining from the Mayor of the District of Columbia a written or printed permit so to do; and the Mayor shall not issue a permit for any such sale or sales until he is satisfied that neither fraud nor deception of any kind is contemplated or will be practiced, and that neither the sale, the reasons therefor nor the goods to be sold have not already been or will not thereafter be fraudulently or falsely advertised or in any wise whatsoever misrepresented.

(b) Any license issued pursuant to this subchapter shall be issued as an Inspected Sales and Services endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of Chapter 28 of this title.

(Sept. 8, 1916, 39 Stat. 846, ch. 473, § 1; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(5), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(3), 50 DCR 6913.)

**Cross references.** — License law, auctioneer licenses, see § 47-2808.

License law, Council may regulate, modify or eliminate license requirements, see § 47-2842.

**Prior Codifications.** — 1981 Ed., § 47-2701.

1973 Ed., § 47-2201.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (b), substituted “an Inspected Sales and Services endorsement to a basic business license under the basic” for “a Class A Inspected

Sales and Services endorsement to a master business license under the master”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(hh)(3) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 12-261.** — Law 12-261, the “Second Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-845, which

was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No.

12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

## § 47-2702. Application; fee; required information.

Every such permit shall be issued for a definite period of time not exceeding 12 months from its date of issue, and the date and hour of its expiration shall be stated in the permit, and before such permit shall be issued the applicant therefor shall pay to the District of Columbia, through its Collector of Taxes, such fee as the Mayor may deem sufficient to reimburse the District of Columbia for the work and expense of issuing the permit and gathering information concerning the applicant and his goods as the Mayor may deem prudent and best for the protection of the public, but which fee shall not exceed the sum of \$150. The application for the said permit shall be by verified petition, stating the name of the applicant, residence, street, and number of the proposed place of selling, and shall set forth in detail the goods to be sold and what statements or representations are to be made or advertised as to the same, and the length of time for which the permit is desired; and, if previously engaged in a like or similar business, to designate all the places where the same was conducted, and shall furnish to the Mayor such further evidence as shall be deemed necessary to establish the truth of the statements made in the said petition.

(Sept. 8, 1916, 39 Stat. 846, ch. 473, § 2; Sept. 14, 1976, D.C. Law 1-82, title I, § 106, 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2702.

1973 Ed., § 47-2202.

**Legislative history of Law 1-82.** — Law 1-82, the "License Fees and Charges Act of 1976," was introduced in Council and assigned Bill No. 1-237, which was referred to the Committee on Finance and Revenue. The Bill was

adopted on first and second readings on March 23, 1976 and April 6, 1976, respectively. Signed by the Mayor on June 22, 1976, it was assigned Act No. 1-135 and transmitted to both Houses of Congress for its review.

**Editor's notes.** — Office of Collector of Taxes abolished: See Historical and Statutory Notes following § 47-401.

## § 47-2703. Personal effects, furniture, personal livestock may be sold without permit.

No permit as herein provided for shall be required for the sale of any wagon, carriage, automobile, mechanics' tools, used farming implements, livestock, including game, poultry (dressed or undressed), vegetables, fruits, melons, berries, flowers, or for the sale of used household furniture and effects when being sold at the residence of the housekeeper selling them.

(Sept. 8, 1916, 39 Stat. 847, ch. 473, § 3; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)



**Prior Codifications.** — 1981 Ed., § 47-2703. 1973 Ed., § 47-2203.

### § 47-2704. Suspension of license for violations.

The Mayor of the District of Columbia is hereby vested with authority to temporarily suspend the operation of the license herein provided for whenever he may believe that this subchapter, or any part thereof, or regulations made in pursuance thereof, are about to be or are being violated, and he shall thereupon forthwith institute the appropriate proceeding in the Superior Court of the District of Columbia in accordance with this subchapter, and in the event that the said violation results in a conviction, then and in that event the license shall be and become null and void, but in the event that the said proceeding shall terminate in favor of the defendant, then and in that event the suspension of said license shall be at an end, and the license shall thereupon be restored and be in full force and effect.

(Sept. 8, 1916, 39 Stat. 847, ch. 473, § 4; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Administrative procedure, generally, see § 2-501 et seq. 1973 Ed., § 47-2204.

**Prior Codifications.** — 1981 Ed., § 47-2704.

### § 47-2705. Hours restricted for auctions of jewelry or valuables.

No person as herein provided for shall sell at public auction, from the first day of April until the 30th day of September, both inclusive, between the hours of 7:00 p.m. and 8:00 a.m., nor from the first day of October until the 30th day of March, both inclusive, between the hours of 6:00 p.m. and 8:00 a.m. any jewelry, diamond, or other precious stone, watch, gold and silver ware, gold and silver plated ware, statuary, porcelains, bric-a-brac, or articles of virtu.

(Sept. 8, 1916, 39 Stat. 847, ch. 473, § 5; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2705. 1973 Ed., § 47-2205.

### § 47-2706. Misrepresenting merchandise.

Any person selling or offering for sale any property under the provisions of this subchapter shall, in describing the same, be truthful with respect to the character, quality, kind, and description of the same and which, for the purpose hereof, shall be considered as warranties, and any breach of the same shall be punishable by prosecution in the Superior Court of the District of Columbia, as hereinbefore set forth.

(Sept. 8, 1916, 39 Stat. 847, ch. 473, § 6; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2706. 1973 Ed., § 47-2206.

## § 47-2707. Prosecutions.

All prosecutions under this subchapter shall be in the Superior Court of the District of Columbia upon information by the Attorney General for the District of Columbia or 1 of his assistants. Any person violating any of the provisions of this subchapter shall, upon conviction thereof, be punished by a fine of not less than \$10 nor more than \$200 or imprisonment of not more than 60 days or both, in the discretion of the court. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this subchapter, or any rules or regulations issued under the authority of this subchapter, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this subchapter shall be pursuant to Chapter 18 of Title 2.

(Sept. 8, 1916, 39 Stat. 847, ch. 473, § 7; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); Oct. 5, 1985, D.C. Law 6-42, § 465, 32 DCR 4450; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 13, 2005, D.C. Law 15-354, § 73(k), 52 DCR 2638.)

**Prior Codifications.** — 1981 Ed., § 47-2707.

1973 Ed., § 47-2207.

**Effect of amendments.** — D.C. Law 15-354 substituted "Attorney General for the District of Columbia" for "Corporation Counsel".

**Legislative history of Law 6-42.** — Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," was introduced in Council and assigned Bill No.

6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

## § 47-2708. Construction.

Nothing in this subchapter shall be construed to excuse or release any person, firm or corporation, or property from the payment of any occupational or property tax, or any other tax imposed or levied by law. Neither shall anything herein be construed to obviate the application of any fraudulent or false advertisement statute of the District of Columbia to any person who may violate the same; nor shall anything herein be construed to prevent any prosecution for fraud, deceit, or larceny by trick; nor to in any way estop or hinder any remedy at law or in equity, or the right to cancel or estop any unconscionable bargain or fraudulent transaction.

(Sept. 8, 1916, 39 Stat. 847, ch. 473, § 8; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)



**Prior Codifications.** — 1981 Ed., § 47-2708. 1973 Ed., § 47-2208.

*Subchapter II. Miscellaneous Provisions.*

**§ 47-2711. Riparian permits.**

(a) The schedule of fees to be charged by the District of Columbia for the issuance of riparian permits is hereby established and set out as follows:

RIPIARIAN PERMITS SCHEDULE

Fees required by the Rules and Regulations for the Government of Riparian Rights and Water Privileges in the District of Columbia.

Fees for permits to fill or dredge, construct, reconstruct or repair any structure shall be as follows:

	<i>Fee</i>
Work costing up to \$500 .....	\$ 9.00
Work costing from \$501 to \$1,000 .....	14.00
Each additional \$1,000 of increased cost .....	14.00

(b) *Refunds:* A refund of permit fee shall be made as follows:

(1) When no work has been done under authority of permit the fee in excess of the cost of inspection to verify no work having been done, based on \$10 per inspector hour, the cost of any engineering examination time previously devoted to approval of plans, based on \$15 per hour, plus \$14 administrative costs of "issuance and refund", shall be refunded ..... 14.00

(2) When work authorized by permit has been only partially done and when the District is satisfied that no more work will be done under the permit, the fee in excess of the cost of any engineering plans examination based on \$15 per hour, inspections costs based on \$10 per hour, plus \$14 administrative costs of "issuance and refund", shall be refunded ..... 14.00

*Provided:* That request for refund shall be made within 6 months from date of issuance and the permit and receipt are returned to the Permit Branch.

(c) *Penalty:* The penalty for a permit to abate notice of doing work without a permit shall be 50% of the fee.

(d) *Waiver of permit fees:* No permit fee shall be charged when supported by evidence indicating that the applicant is under contract or subcontract to perform the following:

- (1) Work done exclusively for the District of Columbia.
- (2) Work done under contract for the District.

(Sept. 14, 1976, D.C. Law 1-82, title II, § 201, 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2711. 1973 Ed., § 47-2211.

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2702.

§ 47-2712. Electrical fees.

(a) The Mayor of the District of Columbia shall amend from time to time the schedule of fees to be charged by the District of Columbia for the inspection of electrical equipment and for the issuance of permits to perform electrical services. The Mayor shall amend the schedule by rule to provide for fees in amounts as in his judgment will defray the approximate costs of performing inspections and issuing permits.

(b) Until the schedule of fees is amended by the Mayor in accordance with subsection (a) of this section, the schedule of fees to be charged by the District of Columbia for the inspection of electrical equipment and for the issuance of permits to perform electrical services is as follows:

ELECTRICAL FEE SCHEDULE

GROUP 1. WIRING ONLY

	<i>Fee</i>
Outlets—each 10 .....	\$ 7.00
Outlet means and includes receptacle, switch and fixture outlet	

GROUP 2. FIXTURES AND LAMP HOLDERS

Each 10 .....	3.00
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GROUP 3. ELECTRICAL DISCHARGE SIGNS

1st 500 va .....	12.00
Each additional 500 va .....	7.00

GROUP 4. HEATING EQUIPMENT

Baseboard or spaceheaters	
1st 10 KW—per each KW .....	3.00
Each additional KW .....	2.00
Unit heaters, furnaces — Motors not included .....	15.00
Each additional .....	7.00
Controls only — Each .....	9.00
For units with motors — Add appropriate motor from Group 6	

GROUP 5. COMMERCIAL HEATING AND COOKING

Appliances other than Group 4	
1st 1-8 KW .....	12.00
Each additional .....	7.00
1st-over 8 KW .....	15.00



	<i>Fee</i>
Each additional .....	7.00

## GROUP 6. MOTORS AND GENERATORS

Less than $\frac{1}{4}$ H.P. ....	Apply Group 2
$\frac{1}{4}$ H.P. to 1 H.P. ....	12.00
Each additional .....	7.00
Over 1 H.P. to 5 H.P. ....	19.00
Each additional .....	7.00
Over 5 H.P. to 10 H.P. ....	30.00
Each additional .....	12.00
Over 10 H.P. to 20 H.P. ....	36.00
Each additional .....	15.00
Over 20 H.P. to 30 H.P. ....	47.00
Each additional .....	22.00
Over 30 H.P. to 50 H.P. ....	57.00
Each additional .....	24.00
Over 50 H.P. to 75 H.P. ....	69.00
Each additional .....	30.00
Over 75 H.P. ....	78.00
Each additional .....	36.00
For installation of more than 1 motor, the initial fee shall be the largest motor fee plus the additional fee for the smaller.	

## GROUP 7. SERVICE

Piped house connection .....	7.00
Each additional .....	3.00
Pole line on private property .....	7.00
Each additional .....	3.00
Conductors, including pole .....	9.00
Each additional .....	3.00
Service conductors — Each .....	7.00

## GROUP 8. SERVICE AND METER EQUIPMENT

0 to 200 amperes .....	15.00
Each additional .....	7.00
201 to 400 amperes .....	22.00
Each additional .....	12.00
401 to 800 amperes .....	42.00
Each additional .....	22.00
Over 800 amperes .....	63.00
Each additional .....	30.00

Relocation, replacement or original installation, including meter connection facilities. For installation of more than 1 service equipment, the initial fee shall be for the largest service equipment plus the additional fee for the smaller.

GROUP 9. TRANSFORMERS

1 to 10 KVA .....	12.00
Each additional .....	7.00
11 to 75 KVA .....	19.00
Each additional .....	9.00
76 to 200 KVA .....	24.00
Each additional .....	12.00
Vault .....	63.00
Each additional .....	30.00

GROUP 10. THEATRES OR OTHER PLACES OF PUBLIC ASSEMBLY:  
SPOTLIGHTS

Arc .....	12.00
Each additional .....	7.00
Incandescent .....	7.00
Each additional .....	3.00
Portable or temporary arc .....	9.00
Each additional .....	7.00
Portable or temporary incandescent .....	7.00
Each additional .....	3.00
Motion picture machine	
Permanent .....	30.00
Each additional .....	15.00
Portable .....	19.00
Each additional .....	9.00
Slide projector .....	15.00
Each additional .....	9.00
Amplifier .....	12.00
Each additional .....	7.00
Dimmers (over 1 KW) .....	9.00
Each additional .....	7.00
Portable switchboard .....	12.00
Each additional .....	7.00
Portable T.V. installation	
1st portable T.V. receiver .....	11.00
Each additional receiver .....	5.00
Portable or temporary incandescent lamps (other than spotlights)	
1 to 25 lights .....	9.00



	<i>Fee</i>
26 to 50 lights .....	13.00
51 to 100 lights .....	19.00
Each additional 100 lights .....	5.00

#### GROUP 11. TEMPORARY INSTALLATIONS

##### Decorations, lawn fetes, etc.

1 to 25 lights — 1st 90 days .....	12.00
Each additional 90 days .....	7.00
26 to 50 lights — 1st 90 days .....	19.00
Each additional 90 days .....	9.00
51 to 100 lights — 1st 90 days .....	24.00
Each additional 90 days .....	12.00
Each additional 100 lights — 1st 90 days .....	7.00
Each additional 90 days .....	3.00

Use of current on wiring, apparatus and fixtures for use pending completion of installation — 1st 90 days .....	24.00
Each additional 90 days .....	12.00

##### Circuses and Carnivals

1st 50 KW .....	63.00
Each additional 100 KW .....	63.00

##### Exhibitions, etc.

1st 3,000 sq. ft. ....	27.00
Each additional 1,000 sq. ft. ....	15.00

#### GROUP 12. RADIO AND TELEVISION EQUIPMENT

Transmitting station — 1st .....	36.00
Each additional .....	19.00

##### Receiving station

Antenna and ground connection device for receivers — 1st .....	7.00
Each additional 10 .....	7.00

Centralized speaker station — 1st 10 .....	7.00
Each additional 10 .....	7.00

Centralized receiver amplifier .....	12.00
Each additional .....	12.00

Closed circuit television camera — 1st camera .....	9.00
Each additional camera .....	7.00

#### GROUP 13. MISCELLANEOUS

Arc vapor lamps — 1st .....	9.00
Each additional .....	7.00
Battery charges .....	13.00
Each additional .....	7.00

	<i>Fee</i>
Electric ranges (residential) .....	7.00
Each additional .....	2.00
Clothes dryer (residential) .....	7.00
Each additional .....	2.00
Garbage disposal (residential) .....	7.00
Each additional .....	3.00
X-Ray machine .....	12.00
Each additional .....	7.00
Dishwasher (residential) .....	7.00
Each additional .....	3.00
Hot water heater (residential) .....	7.00
Each additional .....	3.00
Fire alarm station and bell .....	Apply Group 1
Electric signs — Incandescent .....	Apply Group 2
Festoon lighting .....	Apply Group 2
Air conditioner — Central system	
Not over 5 tons (residential) 1st .....	30.00
2nd to 25th, each .....	10.00
Above 25, each .....	7.00
Rectifier .....	15.00
Each additional .....	7.00
Welders .....	15.00
Each additional .....	7.00
Minimum fee .....	7.00
Portable equipment on circuits 20 amperes or less .....	No Fee
Electric furnaces (residential)	
1st .....	15.00
2nd .....	12.00
Over 25, each .....	7.00
Electric cranes for construction work .....	67.00
Replacement of feeder conductors:	
Per feeder (old work) 1st .....	7.00
Each additional .....	3.00
Panel board replacement	
1st panel board (old work) .....	7.00
Each additional .....	3.00
Installation of empty conduits:	
Per floor .....	7.00
Duplicates — Preliminary and final certificates of performance or correction of records .....	7.00
Quarterly permits — The fee for quarterly permits to install circuits, fixtures and receptacles shall be in accordance with the work done, in no case less than \$27 payable at the time the permit is issued .....	27.00
Defect reinspection fee .....	13.00



*Fee*

When the applicant receives a written notice of defects found during the original inspection and the applicant or his agent reports the defects have been corrected, and upon inspection of the defect, noted originally, it is revealed that the defects have not been fully corrected, a charge of \$13 will be made for each inspection thereafter ..... 13.00

NOTE

Where application is made for a permit to cover an electrical installation, or alterations previously made, for which a permit has not been issued, there shall be a service charge of 50 percent of the regular fee with a minimum \$13 addition to the regular fee. No service charge shall be made for emergency repair work if a permit is . . . 13.00 applied for at once .....

REFUNDS

A refund of permit fees shall be made as follows:

(1) When no work has been done under authority of a permit, the fee in excess of the costs of inspection to verify no work having been done, based on \$13 per inspector hour, the cost of any engineering examination time previously devoted to approval of plans based on \$20 per hour, plus \$19 administrative costs of “issuance and refund”, shall be refunded ..... 19.00

(2) When work authorized by permit has been only partially done and when the District is satisfied that no more work will be done under the permit, the fee in excess of the cost of any engineering plans examination based on \$20 per hour, cost of inspections made, based on \$13 per hour, plus \$19 administrative costs of “issuance and refund”, shall be refunded ..... 19.00

(3) Provided, that the request for refund shall be made within six months from the date of issuance and the permit and receipt are returned to the Permit Branch.

PENALTY

The penalty for a permit to abate notice of doing work without a permit shall be 50 percent of the fee.

WAIVER OF PERMIT FEES

No permit fee shall be charged when supported by evidence indicating that the applicant is under contract or subcontract to perform the following:

- (1) Work done exclusively for the District of Columbia.
- (2) Work done under contract for the District of Columbia.

*Fee*

(3) Work done exclusively for agencies of the United States government.

(Sept. 14, 1976, D.C. Law 1-82, title III, § 301, 23 DCR 2461; June 22, 1983, D.C. Law 5-14, § 202(a), 30 DCR 2632; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Mayor, Council and other officers, licensing and registration fees, Mayor's power to fix, see § 1-301.74.

Mayor, Council and other officers, Mayor's power to increase or decrease fees authorized in § 1-301.74, see § 1-301.75.

**Prior Codifications.** — 1981 Ed., § 47-2712.

1973 Ed., § 47-2212.

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2702.

**Legislative history of Law 5-14.** — Law

5-14, the "District of Columbia Revenue Act of 1983," was introduced in Council and assigned Bill No. 5-74, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 12, 1983 and April 26, 1983, respectively. Signed by the Mayor on May 4, 1983, it was assigned Act No. 5-29 and transmitted to both Houses of Congress for its review.

**Editor's notes.** — Mayor authorized to issue rules: Section 1102 of D.C. Law 5-14 provided that the Mayor shall issue rules necessary to carry out the provisions of the act.

§ 47-2713. District of Columbia General Hospital rates.

(a) The per diem rates to be charged for inpatient services at the District of Columbia General Hospital shall be as follows:

- (1) Medical ..... \$215.00.
- (2) Surgical ..... 216.00.
- (3) Pediatrics ..... 278.00.
- (4) Obstetrics ..... 370.00.
- (5) Crippled children ..... 232.00.
- (6) Gynecology ..... 130.00.

(b) The rates to be charged for emergency room services, clinic abortion, and hemodialysis treatment services at the District of Columbia General Hospital shall be as follows:

- (1) Emergency room ..... \$53.50 per visit.
- (2) Clinic abortion ..... 360.00 per abortion.
- (3) Hemodialysis treatment ..... 316.00 per treatment.

(c) The rates to be charged for mental health, mental retardation clinic, and home psychiatry services rendered to patients shall be as follows:

- (1) For mental health services:
  - (A) Inpatients ..... \$140.00 per day.
  - (B) Daypatients ..... 66.50 per day.
  - (C) Outpatients ..... 43.50 per day.
- (2) For mental retardation clinic services:
  - (A) Daypatients ..... \$55.00 per day.
  - (B) Outpatients ..... 35.75 per visit.
- (3) For home psychiatry services: ..... \$19.00 per home visit.

(Sept. 14, 1976, D.C. Law 1-82, title IV, § 401, 23 DCR 2461; Sept. 28, 1977, D.C. Law 2-24, § 2(a), 24 DCR 3343; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)



**Section references.** — This section is referred to in §§ 47-2716 and 47-2717.

**Prior Codifications.** — 1981 Ed., § 47-2713.

1973 Ed., § 47-2213.

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2702.

**Legislative history of Law 2-24.** — Law

2-24, the "Health Services Rates Act of 1977," was introduced in Council and assigned Bill No. 2-118, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 31, 1977 and June 14, 1977, respectively. Signed by the Mayor on July 13, 1977, it was assigned Act No. 2-59 and transmitted to both Houses of Congress for its review.

## § 47-2714. District of Columbia Village rates.

(a) The per diem rate to be charged for skilled care patients at District of Columbia Village shall be \$82.50.

(b) The per diem rate to be charged for intermediate care patients at District of Columbia Village shall be \$56.00.

(Sept. 14, 1976, D.C. Law 1-82, title IV, § 402, 23 DCR 2461; Sept. 28, 1977, D.C. Law 2-24, § 2(b), 24 DCR 3343; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Section references.** — This section is referred to in §§ 47-2716 and 47-2717.

**Prior Codifications.** — 1981 Ed., § 47-2714.

1973 Ed., § 47-2214.

**Legislative history of Law 1-82.** — For

legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2702.

**Legislative history of Law 2-24.** — For legislative history of D.C. Law 2-24, see Historical and Statutory Notes following § 47-2713.

## § 47-2715. Glenn Dale Hospital rates.

The per diem rate to be charged patients for medical care and service at Glenn Dale Hospital shall be \$75.50.

(Sept. 14, 1976, D.C. Law 1-82, title IV, § 403, 23 DCR 2461; Sept. 28, 1977, D.C. Law 2-24, § 2(c), 24 DCR 3343; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Section references.** — This section is referred to in §§ 47-2716 and 47-2717.

**Prior Codifications.** — 1981 Ed., § 47-2715.

1973 Ed., § 47-2215.

**Legislative history of Law 1-82.** — For

legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2702.

**Legislative history of Law 2-24.** — For legislative history of D.C. Law 2-24, see Historical and Statutory Notes following § 47-2713.

## § 47-2716. Denial of medical or mental health services for inability to pay prohibited.

No person shall be denied the services enumerated in §§ 47-2713 to 47-2716 because of his or her inability to pay for those services.

(Sept. 14, 1976, D.C. Law 1-82, title IV, § 404, 23 DCR 2461; Sept. 28, 1977, D.C. Law 2-24, § 2(d), 24 DCR 3343; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Section references.** — This section is referred to in § 47-2717.

**Prior Codifications.** — 1981 Ed., § 47-2716.  
1973 Ed., § 47-2215a.

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2702.

**Legislative history of Law 2-24.** — For legislative history of D.C. Law 2-24, see Historical and Statutory Notes following § 47-2713.

**§ 47-2717. Mayor to adjust medical and mental health service rates.**

The Mayor of the District of Columbia is hereby authorized to adjust, from time to time, the rates to be charged for the medical care and mental health services specified in §§ 47-2713 to 47-2716 except that the Mayor's authority to adjust the rates to be charged for medical care at the outpatient clinic at District of Columbia General Hospital shall terminate on the date that the D.C. General Hospital Commission holds its first meeting pursuant to the provisions of §§ 44-1911 [repealed] and 44-1916(b) [repealed]. Notice of any change in the rates to be charged for the medical care and mental health services specified in §§ 47-2713 to 47-2716 shall be filed with the Council of the District of Columbia at least 30 days prior to their effective date.

(Sept. 28, 1977, D.C. Law 2-24, § 3, 24 DCR 3343; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2717.  
1973 Ed., § 47-2215b.

**Legislative history of Law 2-24.** — For legislative history of D.C. Law 2-24, see Historical and Statutory Notes following § 47-2713.

**§ 47-2718. Public space permits.**

(a) The Mayor of the District of Columbia shall amend from time to time the schedule of fees to be charged by the District of Columbia for the issuance of public space permits for underground excavations, constructing manholes, and connecting sewers, conduits and mains. The Mayor shall amend the schedule by rule to provide for fees in amounts as in his judgment will defray the approximate costs of issuing permits and of performing inspections as may be necessary in connection therewith.

(b) Until the schedule of fees is amended by the Mayor in accordance with subsection (a) of this section, the schedule of fees to be charged by the District of Columbia for the issuance of public space permits for underground excavations, constructing manholes, and connecting sewers, conduits and mains is as follows:

PUBLIC SPACE PERMIT FEE SCHEDULE	
UNDERGROUND EXCAVATIONS	
	<i>Fee</i>
Fuel oil, etc.	
Fuel oil, gasoline and solvent fill pipes .....	\$ 69.00
Fuel oil tanks with curb fills, or residential tanks with curb fills ..	276.00



	<i>Fee</i>
Nonresidential tanks with curb fills .....	291.00
Replacement or repair of fill pipes and repair of tanks .....	69.00
Replacement of tanks .....	178.00

### MANHOLES

(Except transformer), and valves. For 1 house connection and 1 associated necessary manhole when no other work is included in permit. For constructing a single manhole or gas valve without laying conduit or main. For rebuilding a manhole, including any change in the size, shape, depth, or location of conduit made necessary by the work on the manhole. If a manhole is reduced in size, the conduit may be extended to a new wall, or altered slightly in location or depth to conform to the new manhole location without additional charge .... 42.00.

	<i>Fee</i>
All sewer connections except those to trunk sewers, when part of another job .....	24.00.
Sewer connections to trunk sewers, when part of another job .....	69.00.
All sewer connections except those to trunk sewers, when not included with other work .....	39.00.
Sewer connections to trunk sewers, when not included with other work .....	85.00.

### SEWER CONNECTIONS

All sewer connections except those to trunk sewers, when part of another job .....	24.00.
Sewer connections to trunk sewers, when part of another job .....	69.00.
All sewer connections except those to trunk sewers, when not included with other work .....	39.00.
Sewer connections to trunk sewers, when not included with other work .....	85.00.

### CONDUIT OR MAIN

Conduit and manholes, or main and valves .....	85.00.
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(Sept. 14, 1976, D.C. Law 1-82, title VI, § 601, 23 DCR 2461; June 22, 1983, D.C. Law 5-14, § 202(b), 30 DCR 2632; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Mayor, Council and other officers, licensing and registration fees, Mayor's power to fix, see § 1-301.74.

Mayor, Council and other officers, Mayor's power to increase or decrease fees authorized in § 1-301.74, see § 1-301.75.

**Prior Codifications.** — 1981 Ed., § 47-2718.  
1973 Ed., § 47-2216.

**Effect of amendments.** — Section 503 of D.C. Law 13-172 provided: "The amendments made by section 502 of this title to the public rights-of-way rental fees do not preclude the Mayor from further amending these same fees as authorized in section 604 of the Fiscal Year 1997 Budget Support Act of 1996 provided that the amended rates, when taken together with the other user fees, charges, and penalties

collected pursuant to that section and D.C. Code § 47-2718 do not adversely impact the positive fiscal impact identified in section 506 of this title.”

**Emergency legislation.** — For temporary (90-day) authorization of fee changes, see § 503 of the Fiscal Year 2001 Budget Support Emergency Act of 2000 (D.C. Act 13-376, July 24, 2000, 47 DCR 6574).

For temporary (90 day) amendment of section, see § 503 of the Fiscal Year 2001 Budget Support Congressional Review Emergency Act of 2000 (D.C. Act 13-438, October 20, 2000, 47 DCR 8740).

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2702.

**Legislative history of Law 5-14.** — For legislative history of D.C. Law 5-14, see Historical and Statutory Notes following § 47-2712.

**Delegation of Authority.** — Delegation of authority pursuant to An Act Making Appropriations to Provide for the Expenses of the Government of D.C. for the FY Ending June 30, 1920 and for Other Purposes; and to the License Fees and Charges Act of 1976, see Mayor’s Order 99-158, October 13, 1999 (46 DCR 8841).

**Editor’s notes.** — Mayor authorized to issue rules: Section 1102 of D.C. Law 5-14 provided that the Mayor shall issue rules necessary to carry out the provisions of the act.

### *Subchapter III. Clean Air Compliance Fees.*

## § 47-2731. Findings. [Repealed].

Repealed.

(Mar. 21, 1995, D.C. Law 10-242, § 2, 42 DCR 86; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 5, 1997, 111 Stat. 781, Pub. L. 105-33, § 11702(a)(1).)

**Prior Codifications.** — 1981 Ed., § 47-2731.

**Legislative history of Law 10-242.** — Law 10-242, the “Clean Air Compliance Fee Act of 1994,” was introduced in Council and assigned Bill No. 10-610, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 1, 1994, and December 6, 1994, respectively. Signed by the Mayor on December 28, 1994, it was assigned Act No. 10-387 and transmitted to both Houses of Congress for its review. D.C. Law 10-242 became effective on March 21, 1995.

**Effective date.** — Pub. L. 105-33, title XI, § 11721, Aug. 5, 1997, 111 Stat. 786, provided: “Sec. 11721. Effective Date. Except as otherwise provided in this title, the provisions of this title shall take effect on the later of October 1, 1997, or the day the District of Columbia Fi-

nancial Responsibility and Management Assistance Authority certifies that the financial plan and budget for the District government for fiscal year 1998 meet the requirements of section 201(c)(1) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by this title.”

**Editor’s notes.** — Mayor authorized to issue rules: Section 12 of D.C. Law 10-242 provided that pursuant to subchapter I of Chapter 5 of Title 2, the Mayor is authorized to issue any rules that may be necessary to implement the provisions of the act. Additionally Council requested that the Mayor amend the District of Columbia State Implementation Plan to ensure that the District receives credit for reductions in volatile organic compounds and nitrogen oxides, in fulfillment of the District’s federally mandated requirement to reduce ozone creating pollutants.

## § 47-2732. Definitions. [Repealed].

Repealed.

(Mar. 21, 1995, D.C. Law 10-242, § 3, 42 DCR 86; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 5, 1997, 111 Stat. 781, Pub. L. 105-33, § 11702(a)(1).)

**Prior Codifications.** — 1981 Ed., § 47-2732.

**Legislative history of Law 10-242.** — For legislative history of D.C. Law 10-242, see His-



torical and Statutory Notes following § 47-2731.

**Effective date.** — Pub. L. 105-33, title XI, § 11721, Aug. 5, 1997, 111 Stat. 786, provided: “Sec. 11721. Effective Date. Except as otherwise provided in this title, the provisions of this title shall take effect on the later of October 1, 1997, or the day the District of Columbia Fi-

nanacial Responsibility and Management Assistance Authority certifies that the financial plan and budget for the District government for fiscal year 1998 meet the requirements of section 201(c)(1) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by this title.”

## § 47-2733. Clean Air Act compliance fee. [Repealed].

Repealed.

(Mar. 21, 1995, D.C. Law 10-242, § 4, 42 DCR 86; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 5, 1997, 111 Stat. 781, Pub. L. 105-33, § 11702(a)(1).)

**Prior Codifications.** — 1981 Ed., § 47-2733.

**Legislative history of Law 10-242.** — For legislative history of D.C. Law 10-242, see Historical and Statutory Notes following § 47-2731.

**Effective date.** — Pub. L. 105-33, title XI, § 11721, Aug. 5, 1997, 111 Stat. 786, provided: “Sec. 11721. Effective Date. Except as otherwise provided in this title, the provisions of this

title shall take effect on the later of October 1, 1997, or the day the District of Columbia Financial Responsibility and Management Assistance Authority certifies that the financial plan and budget for the District government for fiscal year 1998 meet the requirements of section 201(c)(1) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by this title.”

## § 47-2734. Registration of employment parking spaces. [Repealed].

Repealed.

(Mar. 21, 1995, D.C. Law 10-242, § 5, 42 DCR 86; Apr. 18, 1996, D.C. Law 11-110, § 56(a), 43 DCR 530; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 5, 1997, 111 Stat. 781, Pub. L. 105-33, § 11702(a)(1).)

**Prior Codifications.** — 1981 Ed., § 47-2734.

**Legislative history of Law 10-242.** — For legislative history of D.C. Law 10-242, see Historical and Statutory Notes following § 47-2731.

**Legislative history of Law 11-110.** — Legislative history of Law 11-110, the “Technical Amendments Act of 1996,” was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its

review. D.C. Law 11-110 became effective on April 18, 1996.

**Effective date.** — Pub. L. 105-33, title XI, § 11721, Aug. 5, 1997, 111 Stat. 786, provided: “Sec. 11721. Effective Date. Except as otherwise provided in this title, the provisions of this title shall take effect on the later of October 1, 1997, or the day the District of Columbia Financial Responsibility and Management Assistance Authority certifies that the financial plan and budget for the District government for fiscal year 1998 meet the requirements of section 201(c)(1) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by this title.”

## § 47-2735. Exemptions. [Repealed].

Repealed.

(Mar. 21, 1995, D.C. Law 10-242, § 6, 42 DCR 86; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 5, 1997, 111 Stat. 781, Pub. L. 105-33, § 11702(a)(1).)

**Prior Codifications.** — 1981 Ed., § 47-2735.

**Legislative history of Law 10-242.** — For legislative history of D.C. Law 10-242, see Historical and Statutory Notes following § 47-2731.

**Effective date.** — Pub. L. 105-33, title XI, § 11721, Aug. 5, 1997, 111 Stat. 786, provided: “Sec. 11721. Effective Date. Except as otherwise provided in this title, the provisions of this

title shall take effect on the later of October 1, 1997, or the day the District of Columbia Financial Responsibility and Management Assistance Authority certifies that the financial plan and budget for the District government for fiscal year 1998 meet the requirements of section 201(c)(1) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by this title.”

## § 47-2736. Rules of construction. [Repealed].

Repealed.

(Mar. 21, 1995, D.C. Law 10-242, § 7, 42 DCR 86; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 5, 1997, 111 Stat. 781, Pub. L. 105-33, § 11702(a)(1).)

**Prior Codifications.** — 1981 Ed., § 47-2736.

**Legislative history of Law 10-242.** — For legislative history of D.C. Law 10-242, see Historical and Statutory Notes following § 47-2731.

**Effective date.** — Pub. L. 105-33, title XI, § 11721, Aug. 5, 1997, 111 Stat. 786, provided: “Sec. 11721. Effective Date. Except as otherwise provided in this title, the provisions of this

title shall take effect on the later of October 1, 1997, or the day the District of Columbia Financial Responsibility and Management Assistance Authority certifies that the financial plan and budget for the District government for fiscal year 1998 meet the requirements of section 201(c)(1) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by this title.”

## § 47-2737. Special agreement with the federal government. [Repealed].

Repealed.

(Mar. 21, 1995, D.C. Law 10-242, § 8, 42 DCR 86; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 5, 1997, 111 Stat. 781, Pub. L. 105-33, § 11702(a)(1).)

**Prior Codifications.** — 1981 Ed., § 47-2737.

**Legislative history of Law 10-242.** — For legislative history of D.C. Law 10-242, see Historical and Statutory Notes following § 47-2731.

**Effective date.** — Pub. L. 105-33, title XI, § 11721, Aug. 5, 1997, 111 Stat. 786, provided: “Sec. 11721. Effective Date. Except as otherwise provided in this title, the provisions of this

title shall take effect on the later of October 1, 1997, or the day the District of Columbia Financial Responsibility and Management Assistance Authority certifies that the financial plan and budget for the District government for fiscal year 1998 meet the requirements of section 201(c)(1) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by this title.”

## § 47-2738. Payment. [Repealed].

Repealed.



(Mar. 21, 1995, D.C. Law 10-242, § 9, 42 DCR 86; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 5, 1997, 111 Stat. 781, Pub. L. 105-33, § 11702(a)(1).)

**Prior Codifications.** — 1981 Ed., § 47-2738.

**Legislative history of Law 10-242.** — For legislative history of D.C. Law 10-242, see Historical and Statutory Notes following § 47-2731.

**Effective date.** — Pub. L. 105-33, title XI, § 11721, Aug. 5, 1997, 111 Stat. 786, provided: "Sec. 11721. Effective Date. Except as otherwise provided in this title, the provisions of this

title shall take effect on the later of October 1, 1997, or the day the District of Columbia Financial Responsibility and Management Assistance Authority certifies that the financial plan and budget for the District government for fiscal year 1998 meet the requirements of section 201(c)(1) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by this title."

## § 47-2739. Penalties and enforcement. [Repealed].

Repealed.

(Mar. 21, 1995, D.C. Law 10-242, § 10, 42 DCR 86; Apr. 18, 1996, D.C. Law 11-110, § 56(b), 43 DCR 530; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 5, 1997, 111 Stat. 781, Pub. L. 105-33, § 11702(a)(1).)

**Prior Codifications.** — 1981 Ed., § 47-2739.

**Legislative history of Law 10-242.** — For legislative history of D.C. Law 10-242, see Historical and Statutory Notes following § 47-2731.

**Legislative history of Law 11-110.** — For legislative history of D.C. Law 11-110, see Historical and Statutory Notes following § 47-2734.

**Effective date.** — Pub. L. 105-33, title XI, § 11721, Aug. 5, 1997, 111 Stat. 786, provided:

"Sec. 11721. Effective Date. Except as otherwise provided in this title, the provisions of this title shall take effect on the later of October 1, 1997, or the day the District of Columbia Financial Responsibility and Management Assistance Authority certifies that the financial plan and budget for the District government for fiscal year 1998 meet the requirements of section 201(c)(1) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by this title."

## § 47-2740. Allocation of clean air compliance fee. [Repealed].

Repealed.

(Mar. 21, 1995, D.C. Law 10-242, § 11, 42 DCR 86; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 5, 1997, 111 Stat. 781, Pub. L. 105-33, § 11702(a)(1).)

**Prior Codifications.** — 1981 Ed., § 47-2740.

**Legislative history of Law 10-242.** — For legislative history of D.C. Law 10-242, see Historical and Statutory Notes following § 47-2731.

**Effective date.** — Pub. L. 105-33, title XI, § 11721, Aug. 5, 1997, 111 Stat. 786, provided: "Sec. 11721. Effective Date. Except as otherwise provided in this title, the provisions of this

title shall take effect on the later of October 1, 1997, or the day the District of Columbia Financial Responsibility and Management Assistance Authority certifies that the financial plan and budget for the District government for fiscal year 1998 meet the requirements of section 201(c)(1) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by this title."

CHAPTER 27A. SPECIAL PUBLIC SAFETY FEE.

Sec.

47-2751. Definitions.

47-2752. Arena fee.

Sec.

47-2753. Enforcement.

§ 47-2751. Definitions.

For the purposes of this chapter, the term:

(1) "District gross receipts" means all income, derived from any activity whatsoever from sources within the District, whether compensated in the District or not, prior to the deduction of any expense whatsoever connected with the production of such income, except that, beginning with the fee that is required by this title to be paid in fiscal year 1996 and thereafter, the calculation of such income shall not include the collection of federal or local taxes on motor vehicle fuel.

(2)(A) "Feepayer", except as provided in subparagraph (B) of this paragraph, means any person, fiduciary, partnership, unincorporated business, association, corporation, or any other entity subject to:

(i) Subchapter VII of Chapter 18 of this title;

(ii) Subchapter VIII of Chapter 18 of this title; or

(iii) The provisions of Chapter 1 of Title 51, except any employer in the employer's capacity as a householder as distinguished from an employer in the pursuit of a trade, occupation, profession, enterprise, or vocation.

(B) "Feepayer" shall not include a child development home, as defined in § 4-401(3).

(June 14, 1994, D.C. Law 10-128, § 301, 41 DCR 2096; Sept. 28, 1994, D.C. Law 10-189, § 2(a), 41 DCR 5357; Sept. 6, 1995, D.C. Law 11-33, § 2(a), 42 DCR 4038; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-255, § 3(a), 46 DCR 1279.)

**Cross references.** — Convention center and sports arena authorization, limitation on amount of borrowing financed by arena tax, see § 47-398.05.

**Prior Codifications.** — 1981 Ed., § 47-2751.

**Temporary legislation.** — Section 4 of D.C. Law 11-86 provided for a temporary limit on the amount of borrowing to be financed by the Arena Tax for the purpose of construction and financing of the Arena.

Section 6(b) of D.C. Law 11-86 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary amendment of section, see § 2(a) of the Arena Tax Payment and Use Congressional Review Emergency Amendment Act of 1995 (D.C. Act 11-123, July 27, 1995, 42 DCR 4156).

For temporary (90-day) amendment of section, see § 3(a) of the Child Development Home Promotion Congressional Review Emergency

Amendment Act of 1999 (D.C. Act 13-57, April 16, 1999, 46 DCR 3862).

For temporary addition of provisions placing a limit on the amount of borrowing to be financed by the Arena Tax for the purpose of construction and financing of the Arena, see § 4 of the Real Property Tax Rates for Tax Year 1996 Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-183, January 22, 1996, 43 DCR 376) and § 47-398.5.

For a temporary limit on the amount of borrowing to be financed by the Arena Tax for the purpose of construction and financing of the Arena, see § 1303 of the Budget Support Congressional Review Emergency Act of 1996 (D.C. Act 11-206, February 9, 1996, 43 DCR 777).

**Legislative history of Law 10-128.** — Law 10-128, the "Omnibus Budget Support Act of 1994," was introduced in Council and assigned Bill No. 10-575, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 22, 1994, and April 12, 1994, respectively. Signed by the



Mayor on April 14, 1994, it was assigned Act No. 10-225 and transmitted to both Houses of Congress for its review. D.C. Law 10-128 became effective on June 14, 1994.

**Legislative history of Law 10-189.** — Law 10-189, the “Arena Tax Amendment Act of 1994,” was introduced in Council and assigned Bill No. 10-711, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on July 5, 1994, and July 19, 1994, respectively. Signed by the Mayor on August 2, 1994, it was assigned Act No. 10-315 and transmitted to both Houses of Congress for its review. D.C. Law 10-189 became effective on September 28, 1994.

**Legislative history of Law 11-33.** — Law 11-33, the “Arena Tax Payment and Use Amendment Act of 1995,” was introduced in Council and assigned Bill No. 11-214, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on July 11, 1995, and July 25, 1995, respectively. Signed by the Mayor on July 25, 1995, it was assigned Act No. 11-115 and transmitted to both Houses of Congress for its review. D.C. Law 11-33 became effective on September 6, 1995.

**Legislative history of Law 12-255.** — Law 12-255, the “Child Development Home Promotion Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-820, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 29, 1998, it was assigned Act No. 12-603 and transmitted to both Houses of Congress for its review. D.C. Law 12-255 became effective on April 20, 1999.

**Editor’s notes.** — Mayor authorized to issue rules: Section 304 of D.C. Law 10-128, as amended by § 2(d) of D.C. Law 10-189, the Arena Tax Amendment Act of 1994, effective September 28, 1994, provided that the Mayor, pursuant to Chapter 5 of Title 2, shall issue the rules necessary to implement and administer the provisions of this chapter.

Limitations on borrowing associated with arena development and construction costs: For provisions regarding limitation on borrowing associated with arena development and construction costs, see § 1303 of D.C. Law 11-98, which is codified as § 47-2751.

## § 47-2752. Arena fee.

(a) On or before July 15, 1994, each feepayer shall remit to the Mayor a special public safety fee which shall be based upon the annual District gross receipts of a feepayer for the feepayer’s preceding fiscal year.

(a-1)(1) For the fiscal year beginning October 1, 1994, and each fiscal year thereafter until, and including, October 1, 2000, each feepayer shall remit to the Mayor, on or before June 15, a fee that shall be based upon the annual District gross receipts of a feepayer for the feepayer’s preceding tax year and computed according to the fee schedule provided in subsection (b) of this section.

(2)(A) For purposes of this subsection, a feepayer that is exempt from taxation pursuant to § 47-1802.01 shall not be subject to the fee unless, as provided under § 47-1802.01 the feepayer has unrelated business income.

(B) If such feepayer exempt from taxation has unrelated business income, the feepayer shall remit to the Mayor the fee based upon the feepayer’s annual District gross receipts that were associated with the feepayer’s unrelated business income for the feepayer’s preceding fiscal year.

(3) Except as provided in paragraph (4) of this subsection, the Mayor shall collect the fee that shall be remitted pursuant to paragraph (1) of this subsection as agent on behalf of the Redevelopment Land Agency or such other District government agency or instrumentality designated by the Mayor and shall transfer the fee to the Redevelopment Land Agency or such other District government agency or instrumentality designated by the Mayor, to be used as follows:

(A) As a first priority, to finance the reimbursement of any fund of the General Fund of the District government, including, but not limited to, the

Rainy Day Fund established in Fiscal Year 1995, which has been the source of any loan, reprogramming, or transfer of funds to any District government agency or instrumentality for reasonable, necessary, and verified predevelopment and developments costs that have been borne by such District agency or instrumentality for a downtown sports and entertainment arena;

(B) To finance the reimbursement of any District government agency or instrumentality for any and all reasonable, necessary, and verified predevelopment and development costs that are borne by such District government agency or instrumentality for a downtown sports and entertainment arena;

(C) To finance the demolition of buildings located on the future site of the downtown sports and entertainment arena and the relocation and housing of District employees from those buildings;

(D) To finance the acquisition of real property that will serve as the site for a downtown sports and entertainment arena; and

(E) To finance any other costs of the District government associated with the development of a downtown sports and entertainment arena.

(4)(A) The Redevelopment Land Agency, or such other District government agency or instrumentality which has been designated by the Mayor and about which the Mayor shall provide written notice to the Council prior to such designation, is authorized to be the agency which may pledge and create a perfected security interest in the fee that is remitted pursuant to paragraph (1) of this subsection for debt service payment on a term loan or other financing mechanism that is used for the purposes set forth in paragraph (3) of this subsection; provided, that such borrowing or other financing is consistent with the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 777; § 1-201.01 et seq.), and the laws of the District of Columbia.

(B) The Mayor shall provide the Council with the following information associated with the downtown sports and entertainment arena:

(i) A copy of any term sheet, loan commitment, and any other obligation executed by the Redevelopment Land Agency or any District government agency or instrumentality to finance the District government's costs associated with the development of a downtown sports and entertainment arena;

(ii) A copy of each contract executed by the Redevelopment Land Agency, or any District government agency or instrumentality, for goods or services associated with the development of a downtown sports and entertainment arena; and

(iii) On or before July 1, 1995, and every 6 months thereafter, a biannual report which provides an accounting and itemization of all financial obligations and expenditures of the District government, and all revenues generated to the District government, associated with the development of a downtown sports and entertainment arena.

(b) Except as provided in subsection (b-1) of this section, the amount of the fee shall be computed according to the following schedule:

(1) Each feepayer with annual District gross receipts of \$2,000,000 to \$3,000,000 shall pay \$1,000;



(2) Each feepayer with annual District gross receipts of \$3,000,001 to \$10,000,000 shall pay \$3,300;

(3) Each feepayer with annual District gross receipts of \$10,000,001 to \$15,000,000 shall pay \$6,500; and

(4) Each feepayer with annual District gross receipts over \$15,000,000 shall pay \$11,000.

(b-1) The amount of the fee to be remitted on or before June 15, 2001 shall be computed according to the following schedule:

(1) Each feepayer with annual District gross receipts of \$2 million to \$3 million shall pay \$1,300;

(2) Each feepayer with annual District gross receipts of \$3,000,001 to \$10 million shall pay \$4,325;

(3) Each feepayer with annual District gross receipts of \$10,000,001 to \$15 million shall pay \$8,500; and

(4) Each feepayer with annual District gross receipts over \$15 million shall pay \$14,250.

(c) Repealed.

(June 14, 1994, D.C. Law 10-128, § 302, 41 DCR 2096; Sept. 28, 1994, D.C. Law 10-189, § 2(b), 41 DCR 5357; Sept. 6, 1995, D.C. Law 11-33, § 2(b), 42 DCR 4038; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Oct. 20, 1999, D.C. Law 13-38, § 2702(m)(2), 46 DCR 6373; Sept. 6, 2001, D.C. Law 14-19, § 2, 48 DCR 5727.)

**Cross references.** — Convention center and sports arena authorization, borrowing funds for preconstruction activities, revenue required to secure borrowing, see § 47-398.01.

Convention center and sports arena authorization, permitting certain District revenues to be pledged as security for borrowing, revenues from sports arena tax, see § 47-398.02.

**Prior Codifications.** — 1981 Ed., § 47-2752.

**Effect of amendments.** — D.C. Law 13-38 amended the section heading by striking the phrase “Special public safety fee” and inserting the phrase “Arena fee” in its place; and rewriting the schedule in subsec. (b).

Section 2703(d) of D.C. Law 13-38 provides: “Section 2702(m) shall apply to all arena fees due for fiscal years beginning after September 30, 1999.”

D.C. Law 14-19, in subsec. (a-1), substituted “and including October 1, 2000” for “the requirements of paragraph (3) of this subsection have been met”; in subsec. (b), substituted “subsection (b-1)” for “subsection (c)”; added subsec. (b-1); and repealed subsec. (c).

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2 of Arena Tax Payment Temporary Amendment Act of 1995 (D.C. Law 11-32, September 6, 1995, law notification 42 DCR 5301).

For temporary (225 day) amendment of section, see § 2 of Arena Fee Rate Adjustment and

Elimination Temporary Act of 2001 (D.C. Law 14-14, May 10, 2001, law notification 48 DCR 6590).

**Emergency legislation.** — For temporary amendment of section, see § 2 of the Arena Tax Payment Emergency Amendment Act of 1995 (D.C. Act 11-57, May 18, 1995, 42 DCR 2571) and § 2(b) of the Arena Tax Payment and Use Congressional Review Emergency Amendment Act of 1995 (D.C. Act 11-123, July 27, 1995, 42 DCR 4156).

For temporary provisions regarding the limitation on the amount of borrowing for arena development and construction cost, including, but not limited to, land acquisition, construction, predevelopment, off-site infrastructure, and financing for capital interest and principal, to be paid from the proceeds of the arena tax, see § 4 of the Real Property Tax Rates for Tax Year 1996 Emergency Amendment Act of 1995 (D.C. Act 11-148, Oct. 26, 1995, 42 DCR 6054).

For temporary (90-day) amendment of section, see §§ 2702(m) and 2703(d) of the Service Improvement and Fiscal Year 2000 Budget Support Emergency Act of 1999 (D.C. Act 13-110, July 28, 1999, 46 DCR 6320).

For temporary (90 day) amendment of section, see § 2 of Arena Fee Rate Adjustment and Elimination Emergency Act of 2001 (D.C. Act 14-33, April 2, 2001, 48 DCR 3347).

For temporary (90 day) amendment of section, see § 5 of Finance and Revenue Technical

Amendments Second Emergency Amendment Act of 2006 (D.C. Act 16-585, December 28, 2006, 54 DCR 340).

**Legislative history of Law 10-189.** — For legislative history of D.C. Law 10-189, see Historical and Statutory Notes following § 47-2751.

**Legislative history of Law 10-128.** — For legislative history of D.C. Law 10-128, see Historical and Statutory Notes following § 47-2751.

**Legislative history of Law 11-33.** — For legislative history of D.C. Law 11-33, see Historical and Statutory Notes following § 47-2751.

**Legislative history of Law 13-38.** — Law 13-38, the “Service Improvement and Fiscal Year 2000 Budget Support Act of 1999,” was introduced in Council and assigned Bill No. 13-161, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 11, 1999, and June 22, 1999, respectively. Signed by the Mayor on July 8, 1999, it was assigned Act No. 13-111 and transmitted to both Houses of Congress for its review. D.C. Law 13-38 became effective on October 20, 1999.

**Legislative history of Law 14-19.** — Law 14-19, the “Arena Fee Rate Adjustment and Elimination Act of 2001,” was introduced in Council and assigned Bill No. 14-23, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 3, 2001, and May 1, 2001, respectively. Signed by the Mayor on May 22, 2001, it was assigned Act No. 14-67 and

transmitted to both Houses of Congress for its review. D.C. Law 14-19 became effective on September 6, 2001.

**Editor’s notes.** — Application of Law 11-32: Section 3 of D.C. Law 11-32 amended the applicability provision of D.C. Law 10-189 by inserting “financial” between “adverse” and “impact” in the first paragraph.

Section 4(b) of D.C. Law 11-32 provided that the act shall expire on the 225th day of its having taken effect.

For temporary amendment of the applicability provision of D.C. Law 10-189, see § 3 of the Arena Tax Payment Emergency Amendment Act of 1995 (D.C. Act 11-57, May 18, 1995, 42 DCR 2571) and § 3 of the Arena Tax Payment and Use Congressional Review Emergency Amendment Act of 1995 (D.C. Act 11-123, July 27, 1995, 42 DCR 4156).

Revenues as security for arena construction borrowing: For provisions permitting certain District revenues to be pledged as security for borrowing for preconstruction activities relating to Gallery Place Sports Arena, see § 47-398.2 as enacted by Pub. L. 104-28, § 203, 109 Stat. 269.

Waiver of Congressional review: For provisions waiving Congressional review of the Arena Tax Payment and Use Amendment Act of 1995, see § 301 of Pub. Law 104-28, 109 Stat. 270.

Exclusive Development Rights Agreement for the Downtown Arena Resolution of 1995: Pursuant to Resolution 11-11, effective February 7, 1995, the Council approved the exclusive development rights agreement for the development and construction of a downtown arena.

## § 47-2753. Enforcement.

Any feepayer who fails to file a return for or pay the fee due as required by § 47-2752 shall be subject to the same enforcement provisions and administrative provisions applicable to the fee as provided under Chapter 18 and Chapter 41 of this title, but the period of limitations upon assessment and collection shall be determined by § 47-4301.

(June 14, 1994, D.C. Law 10-128, § 303, 41 DCR 2096; Sept. 28, 1994, D.C. Law 10-189, § 2(c), 41 DCR 5357; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Mar. 24, 1998, D.C. Law 12-81, § 59(i), 45 DCR 745; June 9, 2001, D.C. Law 13-305, § 406(uu), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-2753.

**Effect of amendments.** — D.C. Law 13-305 substituted “Chapter 18 and Chapter 41 of this title, but the period of limitations upon assessment and collection shall be determined by § 47-4301” for “Chapter 18 of this title”.

**Legislative history of Law 10-128.** — For legislative history of D.C. Law 10-128, see His-

torical and Statutory Notes following § 47-2751.

**Legislative history of Law 10-189.** — For legislative history of D.C. Law 10-189, see Historical and Statutory Notes following § 47-2751.

**Legislative history of Law 12-81.** — Law 12-81, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill



No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor's notes.** — Section 410(d) of D.C. Law 13-305 provided: "Section 406(a), (c), (j), (m), (p), (q), (s), (w), (bb), (dd), (ee), (hh) through (kk), (mm) through (oo), (qq) through (uu), (yy), (zz), (bbb), (ddd), and (fff) shall apply for all tax years or taxable periods beginning after December 31, 2000."

CHAPTER 27B. BALLPARK FEE.

Sec.

47-2761. Definitions.

47-2762. Ballpark fee.

Sec.

47-2763. Enforcement.

§ 47-2761. Definitions.

For the purposes of this chapter, the term:

(1) "Ballpark" shall have the same meaning as in § 47-2002.05(a)(1).

(2) "Ballpark Revenue Fund" means the fund established by [§ 10-1601.02].

(3) "Bonds" shall have the same meaning as in [§ 10-1601.03(a)(2)].

(4) "Chief Financial Officer" means the Chief Financial Officer of the District of Columbia.

(5) "District gross receipts" means all income derived from any activity whatsoever from sources within the District, other than income of a feepayer derived from an ownership or beneficial interest in other feepayers subject to the ballpark fee, whether compensated in the District or not, prior to the deduction of any expense whatsoever connected with the production of the income, provided, that the calculation of the income shall not include:

(A) The collection of federal or local taxes on motor vehicle fuel; or

(B) Fees retained by a retail establishment under [§ 8-102.03(b)(1)].

(6)(A) "Feepayer" means any person, fiduciary, partnership, unincorporated business, association, corporation, or any other entity subject to:

(i) Subchapter VII of Chapter 18 [of this title];

(ii) Subchapter VIII of Chapter 18 [of this title]; or

(iii) Chapter 1 of Title 51 of the District of Columbia Official Code, except any employer in the employer's capacity as a householder as distinguished from an employer in the pursuit of a trade, occupation, profession, enterprise, or vocation.

(B) [Not funded]

(Apr. 8, 2005, D.C. Law 15-320, § 110(f), 52 DCR 1757; Sept. 23, 2009, D.C. Law 18-55, § 9(a)(6), 56 DCR 5703; Mar. 31, 2011, D.C. Law 18-341, § 2, 58 DCR 624.)

**Effect of amendments.** — D.C. Law 18-55 rewrote par. (5), which had read as follows: "(5) 'District gross receipts' means all income derived from any activity whatsoever from sources within the District, other than income of a feepayer derived from an ownership or beneficial interest in other feepayers subject to the ballpark fee, whether compensated in the District or not, prior to the deduction of any expense whatsoever connected with the production of the income, except that beginning with the ballpark fee that is required by this chapter to be paid in fiscal year 2005 and thereafter, the calculation of the income shall not include the collection of federal or local taxes on motor vehicle fuel."

D.C. Law 18-341, in par. (6), designated the lead-in text as subpar. (A), redesignated former subpars. (A), (B), and (C) as sub-subpars. (i), (ii), and (iii), and added subpar. (B).

**Legislative history of Law 15-320.** — Law 15-320, the "Ballpark Omnibus Financing and Revenue Act of 2004", was introduced in Council and assigned Bill No. 15-1028, which was referred to the Committee of Finance and Revenue. The Bill was adopted on first and second readings on November 30, 2004, and December 21, 2004, respectively. Signed by the Mayor on December 29, 2004, it was assigned Act No. 15-717 and transmitted to both Houses of Congress for its review. D.C. Law 15-320 became effective on April 8, 2005.



**Legislative history of Law 18-55.** — For Law 18-55, see notes following § 47-1803.02.

**Legislative history of Law 18-341.** — Law 18-341, the “Ballpark Fee Clarification Act of 2010”, was introduced in Council and assigned Bill No. 18-899, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on January 12, 2011, it was assigned Act No. 18-686 and transmitted to both Houses of Congress for its review. D.C. Law 18-341 became effective on March 31, 2011.

**Editor’s notes.** — Although Law 18-341 did not contain a provision requiring that the fiscal effect of Law 18-341 be included in an approved budget and financial plan in order for Law 18-341 to apply as law, the Budget Director of the Council of the District of Columbia has determined, as of February 15, 2012, that the fiscal effect of Law 18-341 has not been included in an approved budget and financial plan. Therefore, the provisions of this section, enacted by Law 18-341, are not in effect.

## § 47-2762. Ballpark fee.

(a)(1) For the fiscal year beginning October 1, 2004, and each fiscal year thereafter until and including the fiscal year beginning October 1, 2038, or such earlier or later date as all obligations that are payable from or secured by the ballpark fee are repaid, each feepayer shall remit, on or before June 15 of each year, a ballpark fee that shall be based upon the annual District gross receipts of the feepayer for the feepayer’s preceding tax year and computed according to the ballpark fee schedule provided in subsection (b) of this section.

(2) A feepayer that is exempt from taxation pursuant to § 47-1802.01 shall not be subject to the ballpark fee unless, as provided in § 47-1802.01, the feepayer has unrelated business income subject to tax under section 511 of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 169; 26 U.S.C. § 511). If the feepayer exempt from taxation has unrelated business income, the feepayer shall remit the ballpark fee based upon the feepayer’s annual District gross receipts that were associated with the feepayer’s unrelated business income for the feepayer’s preceding fiscal year.

(b) The amount of the ballpark fee shall be computed according to the following schedule:

(1) Each feepayer with annual District gross receipts of \$5,000,000 to \$8,000,000 shall pay \$5,500;

(2) Each feepayer with annual District gross receipts of \$8,000,001 to \$12,000,000 shall pay \$10,800;

(3) Each feepayer with annual District gross receipts of \$12,000,001 to \$16,000,000 shall pay \$14,000; and

(4) Each feepayer with annual District gross receipts of greater than \$16,000,001 shall pay \$16,500.

(c) On or before December 1 of each year, the Chief Financial Officer shall certify to the Council the amount of revenue received by the District from imposition of the ballpark fee during the immediately preceding fiscal year and provide an estimate of the amount of revenue expected to be received from the ballpark fee in the then current fiscal year. If the amount estimated to be collected is less than \$14 million plus any amount necessary to replenish any reserve funds in accordance with the financing documents and to avoid any projected shortfall in debt service on the bonds, the Chief Financial Officer shall compute the amount of the ballpark fee under the schedule set forth in

subsection (b) of this section needed to provide estimated revenue in the current fiscal year equal to \$14 million plus any amount necessary to replenish any reserve funds in accordance with the financing documents and to avoid any projected shortfall in debt service on the bonds, by applying the same percentage increase to each amount of the then-current ballpark fee under the schedule set forth in subsection (b) of this section. The Chief Financial Officer shall notify the Council, the Mayor, and the feepayers of the new schedule and, upon such notice, the amount of the ballpark fee under the schedule set forth in subsection (b) of this section shall be increased as of October 1 of the current fiscal year.

(d) The revenues received by the District from the ballpark fee imposed by this section shall be deposited into the Ballpark Revenue Fund.

(e) Except in the case of street vendors described in § 47-2002.01, the Chief Financial Officer may require taxpayers subject to the sales taxes and fees imposed by §§ 47-2002.05 and 47-2762 and all sales taxes described in [§ 2-1217.12], to make payments of those taxes electronically.

(f) The Chief Financial Officer or his delegate shall promulgate such regulations as may be necessary and appropriate to carry out provisions of this chapter.

(Apr. 8, 2005, D.C. Law 15-320, § 110(f), 52 DCR 1757; Nov. 30, 2005, D.C. Law 16-91, § 204, 52 DCR 10637; July 13, 2012, D.C. Law 19-149, § 2(b), 59 DCR 5129.)

**Effect of amendments.** — D.C. Law 16-91 rewrote subsec. (c), which had read as follows: “(c) On or before December 1 of each year, the Chief Financial Officer shall certify to the Council the amount of revenue received by the District from imposition of the ballpark fee during the immediately preceding fiscal year and provide an estimate of the amount of revenue expected to be received from the ballpark fee in the then current fiscal year. If the amount estimated to be collected is less than \$26 million, for the allocation of monies for payments of the bonds, as provided by § 10-1601.03(b), the Chief Financial Officer shall compute the amount of the ballpark fee under the schedule set forth in subsection (b) of this section needed to provide estimated revenue in the next fiscal year equal to \$26 million by applying the same percentage increase to each amount of the then-current ballpark fee under the schedule set forth in subsection (b) of this section. The Chief Financial Officer shall notify the Council, the Mayor, and the taxpayers of the new schedule and, upon such notice, the amount of the ballpark fee under the schedule set forth in subsection (b) of this section shall be increased as of October 1 of the following year.”

D.C. Law 19-149, in subsec. (e), substituted “The” for “Except in the case of street vendors described in § 47-2002.01, the”.

**Legislative history of Law 15-320.** — For Law 15-320, see notes following § 47-2761.

**Legislative history of Law 16-91.** — Law 16-91, the “Technical Amendments Act of 2005”, was introduced in Council and assigned Bill No. 16-477, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 1, 2005, and November 15, 2005, respectively. Signed by the Mayor on November 30, 2005, it was assigned Act No. 16-212 and transmitted to both Houses of Congress for its review. Title II of D.C. Law 16-91 became effective on November 30, 2005, pursuant to Pub. L. 109-115, Div. B, § 136.

**Legislative history of Law 19-149.** — For history of Law 19-149, see notes under § 47-2002.01.

**Effective date.** — Section 136 of Pub. L. 109-115, Nov. 30, 2005, 119 Stat. 2522, provided: “Notwithstanding section 602(c)(1) of the District of Columbia Home Rule Act, amendments to the Ballpark Technical Amendments Act of 2005 shall take effect on the date of the enactment by the District of Columbia [Nov. 30, 2005].”

## § 47-2763. Enforcement.

Any feepayer who fails to file a return or pay the ballpark fee due as required



by § 47-2755 [§ 47-2762] shall be subject to the same enforcement provisions and administrative provisions applicable to the ballpark fee as provided in Chapter 18, Chapter 41, Chapter 42 (except §§ 47-4211(b)(1)(B), 47-4214, and 47-4215), and Chapter 43 of this title.

(Apr. 8, 2005, D.C. Law 15-320, § 110(f), 52 DCR 1757; Mar. 2, 2007, D.C. Law 16-191, § 80, 53 DCR 6794.)

**Effect of amendments.** — D.C. Law 16-191 substituted “of this title” for “ of this title ” following “Chapter 43”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 12 of Finance and Revenue Technical Amendments Second Emergency Amendment Act of 2006

(D.C. Act 16-585, December 28, 2006, 54 DCR 340).

**Legislative history of Law 15-320.** — For Law 15-320, see notes following § 47-2761.

**Legislative history of Law 16-191.** — For Law 16-191, see notes following § 47-2425.

## CHAPTER 28. GENERAL LICENSE LAW.

<i>Subchapter I. Specific Licensing Provisions</i>	Sec.	
Sec.		children; ambulances, private vehicles for funeral purposes; issuance of licenses; payment of fees.
47-2801 to 47-2805. [Repealed].		
47-2805.01. Establishment of licensing periods by Mayor; prorating for late application.	47-2830.	Rental or leasing of motor vehicle without driver.
47-2805.02. Requirement for social security number.	47-2831.	Vehicles hauling goods from public space.
47-2806. Licenses to be posted on premises; exhibition to police.	47-2832.	Repairing of motor vehicles.
47-2807. Construction and definition of terms.	47-2832.01.	Parking establishments.
47-2808. Auctioneers; temporary licenses; penalty for failure to account.	47-2833.	[Repealed].
47-2809. Barbershops and beauty parlors.	47-2834.	[Repealed].
47-2810. Conventions of national associations of hairdressers or cosmetologists exempted.	47-2835.	Solicitors.
47-2811. Massage establishments; Turkish, Russian, or medicated baths.	47-2836.	Guides.
47-2812. Public baths.	47-2837.	Secondhand dealers; classification; licensing; stolen property.
47-2813. [Repealed].	47-2838.	Dealers in dangerous weapons.
47-2814. Gasoline, kerosene, oils, fireworks, and explosives.	47-2839.	Private detectives; "detective" defined; regulations.
47-2815. Pyroxylin.	47-2839.01.	Security agencies.
47-2816. [Repealed].	47-2840.	[Repealed].
47-2817. Laundries; dry cleaning and dyeing establishments.	47-2841.	Exposing persons or animals as targets prohibited.
47-2818. Mattress manufacture, renovation, storage, or sale; "mattress" defined.	47-2842.	Council of the District of Columbia may regulate, modify, or eliminate license requirements.
47-2819. [Repealed].	47-2843.	[Repealed].
47-2820. Theaters, moving pictures, skating rinks, dances, exhibitions, lectures, entertainments; assignment of police and firemen and additional fees based thereon; hours minors are prohibited on premises.	47-2844.	Regulations; suspension or revocation of licenses; bonding of licensees authorized to collect moneys; exemptions.
47-2821. Bowling alleys; billiard and pool tables; games.	47-2844.01.	Cease and desist orders.
47-2822. [Repealed].	47-2845.	Prosecutions.
47-2823. Baseball, football, and athletic exhibitions; assignment of police and firemen; amusement parks.	47-2846.	Penalties.
47-2824. Swimming pools.	47-2847.	Saving clause.
47-2825. Circuses.	47-2848.	Severability.
47-2826. Special events.	47-2849.	Refund of erroneously-paid fees.
47-2827. Commission merchants in food; bakeries; bottling, candy-manufacturing, and ice cream manufacturers; groceries; markets; delicatessens; restaurants; private clubs; wholesale fish dealers; dairies.	47-2850.	Rules governing the business of furnishing towing services for motor vehicles.
47-2828. Classification of buildings containing living quarters for licenses; fees; buildings exempt from license requirement.		
47-2829. Vehicles for hire; identification tags on vehicles; vehicles for school		

### *Subchapter I-A. General Provisions*

47-2851.01.	Definitions.
47-2851.02.	License required.
47-2851.03.	Endorsement categories; exemptions.
47-2851.03a.	Existing licenses eliminated.
47-2851.03b.	Unique identifying number.
47-2851.03c.	Agencies' power to inspect and revoke licensure.
47-2851.03d.	General Business License and General Contractor/Construction Manager License.
47-2851.04.	License application and fees.
47-2851.05.	Business license center.
47-2851.06.	Public information.
47-2851.07.	Issuance of licenses.
47-2851.08.	Basic business license application fees; renewal fees.
47-2851.09.	License expiration date.



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- 47-2851.10. Lapsed and reinstated licenses.
- 47-2851.11. Denial of master business license.
- 47-2851.12. Additional licenses.
- 47-2851.13. Establishment of Basic Business License Fund; disposition of license fees, penalties, and fines.
- 47-2851.14. [Repealed].
- 47-2851.15. Existing licenses or permits.
- 47-2851.16. Third party inspections for license endorsements.
- 47-2851.17. Performance audit.
- 47-2851.18. Participation of District agencies.
- 47-2851.19. Amnesty period.
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### *Subchapter I-B. Non-Health Related Occupations and Professions Licensure*

- 47-2853.01. Definitions.
- 47-2853.02. License, certification, and registration criteria.
- 47-2853.03. Scope of subchapter.
- 47-2853.04. Regulated non-health related occupations and professions.
- 47-2853.05. Exemptions; federal services.
- 47-2853.06. Establishment of boards.
- 47-2853.07. Appointment and tenure of board members.
- 47-2853.08. Powers of the boards.
- 47-2853.09. General provisions.
- 47-2853.10. Staffing and administration.
- 47-2853.11. Occupations and Professions Licensure Special Account.
- 47-2853.12. License, certification, and registration criteria; waiver.
- 47-2853.13. Procedures for renewal of license, certification, and registration.
- 47-2853.14. Inactive status.
- 47-2853.15. Reinstatement of expired license.
- 47-2853.16. Display of license, certificate, or registration; notice of changes of address.
- 47-2853.17. Revocation, suspension, or denial of license or privilege; civil penalty; reprimand.
- 47-2853.18. Summary suspension or restriction of license.
- 47-2853.19. [Repealed].
- 47-2853.20. Voluntary surrender of license.
- 47-2853.21. Voluntary limitation or surrender; confidentiality.
- 47-2853.22. Hearings; final decision.
- 47-2853.23. Appeal and review.
- 47-2853.24. Reinstatement of suspended or revoked license.
- 47-2853.25. Licenses and certifications issued prior to this subchapter.
- 47-2853.26. False representation of authority to practice.
- 47-2853.27. Fines and penalties; criminal violations.

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- 47-2853.28. Prosecutions.
- 47-2853.29. Fines and penalties; civil alternatives.
- 47-2853.30. Injunctions; unlawful practices.

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- 47-2853.41. Definitions; scope of practice for accountants.
- 47-2853.42. Eligibility requirements.
- 47-2853.43. Certain representations prohibited.
- 47-2853.44. Registration of firms of certified public accountants.
- 47-2853.45. [Repealed].
- 47-2853.46. [Repealed].
- 47-2853.47. Permits; issuance.
- 47-2853.48. Actions against firms.
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#### Asbestos Workers

- 47-2853.51. Scope of practice for asbestos workers.
- 47-2853.52. Eligibility requirements.
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- 47-2853.61. Scope of practice for architects.
- 47-2853.62. Eligibility requirements.
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- 47-2853.71. Scope of practice for barbers.
- 47-2853.72. Eligibility requirements.
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#### Cosmetologists

- 47-2853.81. Scope of practice for cosmetologists.
- 47-2853.82. Eligibility requirements.
- 47-2853.83. Certain representations prohibited.

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#### Electricians

- 47-2853.91. Scope of practice for electricians.
- 47-2853.92. Eligibility requirements.

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- 47-2853.93. Certain representations prohibited.

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#### Elevator Maintenance

- 47-2853.95. Scope of practice for elevator contractors, elevator mechanics, and elevator inspectors.  
47-2853.96. Eligibility requirements.  
47-2853.97. Certain representations prohibited.  
47-2853.98. Temporary license.  
47-2853.99. Fees; rules.

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#### Interior Designers

- 47-2853.101. Scope of practice for interior designers.  
47-2853.102. Eligibility requirements.  
47-2853.103. Certain representations prohibited.

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#### Land Surveyors

- 47-2853.111. Scope of practice for land surveyors.  
47-2853.112. Eligibility requirements.  
47-2853.113. Interns.  
47-2853.114. Certain representations prohibited.

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#### Plumbers or Gasfitters

- 47-2853.121. Scope of practice for plumbers or gasfitters.  
47-2853.122. Eligibility requirements.  
47-2853.123. Certain representations prohibited.

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#### Professional Engineers

- 47-2853.131. Scope of practice for engineers.  
47-2853.132. Eligibility requirements.  
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- 47-2853.141. Scope of practice for property managers.  
47-2853.142. Eligibility requirements.  
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#### Real Estate Appraisers

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- 47-2853.151. Scope of practice for real estate appraisers.  
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47-2853.153. Certain representations prohibited.  
47-2853.154. Appraisal Education Fund.

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#### Real Estate Brokers

- 47-2853.161. Scope of practice for real estate brokers.  
47-2853.162. Eligibility requirements.  
47-2853.163. Certain representations prohibited.

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- 47-2853.171. Scope of practice for real estate salespersons.  
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47-2853.182. Transfer of license; change of status.  
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47-2853.186. Automatic suspension of license through affiliation.  
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#### Duties of Real Estate Brokers, Salespersons, and Property Managers

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- 47-2884.04. Bond.
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- 47-2884.06. License — Revocation; suspension; renewal; renewal fee; procedure; surrender.
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- 47-2884.08. Advertising; statement of rates.
- 47-2884.09. Maximum rate of interest permitted; repayment of loan.
- 47-2884.10. Excessive consideration prohibited; instruments for loans made in violation of part invalid; loans made outside of District.
- 47-2884.11. Book containing loan transactions required; inspection of books; police to be admitted to premises; daily transcript.
- 47-2884.12. Borrower to receive memorandum of loan transaction.
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- 47-2885.02. Definitions.
- 47-2885.03. General prohibitions.
- 47-2885.04, 47-2885.05. [Repealed].
- 47-2885.06. Registration of pharmacy interns.
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- 47-2885.08. Licensing of pharmacies.
- 47-2885.09. Operation of pharmacy.
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- 47-2885.14. Labeling of prescriptions.
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- 47-2885.18. Duties of Mayor.
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- 47-2886.03. Declaration of policy.
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- 47-2887.01. Definitions.
- 47-2887.02. Service of process; subpoenas.
- 47-2887.03. Athlete agents; registration required; void contracts.
- 47-2887.04. Registration as athlete agent; form; requirements.
- 47-2887.05. Certificate of registration; issuance or denial; renewal.
- 47-2887.06. Suspension, revocation, or refusal to renew registration.
- 47-2887.07. Temporary registration.
- 47-2887.08. Registration and renewal fees.
- 47-2887.09. Required form of contract.
- 47-2887.10. Notice to educational institution.
- 47-2887.11. Student-athlete's right to cancel.
- 47-2887.12. Required records.
- 47-2887.13. Prohibited conduct.
- 47-2887.14. Criminal penalties; prosecution by Attorney General.
- 47-2887.15. Civil remedies.
- 47-2887.16. Administrative penalty.
- 47-2887.17. Uniformity of application and construction.
- 47-2887.18. Electronic Signatures in Global and National Commerce Act.

*Subchapter I. Specific Licensing Provisions.*

**§§ 47-2801 Licenses for business or profession; application; transfer of license; signing and sealing. [Repealed].**

Repealed.

(July 1, 1902, 32 Stat. 622, ch. 1352, § 7, par. 1; July 1, 1932, 47 Stat. 550, ch. 366; 1973 Ed., § 47-2301; Apr. 30, 1988, D.C. Law 7-104, § 43(a), 35 DCR 147; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 29, 1998, D.C. Law 12-86, § 101(c), 45 DCR 1172.)



**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Section references.** — This section is referred to in § 48-108.01.

**Prior Codifications.** — 1981 Ed., § 47-2801.

1973 Ed., § 47-2301.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 11 of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998 (D.C. Law 12-103, May 8, 1998, law notification 45 DCR 3254).

For temporary (225 day) amendment of section, see § 12(b) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998 (D.C. Law 12-210, April 13, 1999, law notification 46 DCR 3832).

**Emergency legislation.** — For temporary amendment of a previous § 47-2801, see § 12 of the Child Support and Welfare Reform Compliance Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-309,

March 20, 1998, 45 DCR 1923), § 11(b) of the Child Support and Welfare Reform Compliance Second Emergency Amendment Act of 1998 (D.C. Act 12-439, August 12, 1998, 45 DCR 6110), § 11(b) of the Child Support and Welfare Reform Compliance Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-503, October 27, 1998, 45 DCR 8495) and § 11(b) of the Child Support and Welfare Reform Compliance Second Congressional Review Emergency Amendment Act of 1998 (D.C. Act 12-600, January 20, 1999, 46 DCR 1239).

**Legislative history of Law 7-104.** — Law 7-104, the "Technical Amendments Act of 1987," was introduced in Council and assigned Bill No. 7-346, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 24, 1987, and December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-124 and transmitted to both Houses of Congress for its review.

**Editor's notes.** — D.C. Law 12-261, title II, § 2003(pp)(6) (46 DCR 3142), eff. April 20, 1999, amends § 47-2805 without reference to its prior repeal by D.C. Law 12-86.

## § 47-2802. Compliance with fire escape laws and regulations required for license. [Repealed].

Repealed.

(July 1, 1902, 32 Stat. 623, ch. 1352, § 7, par. 2; July 1, 1932, 47 Stat. 550; ch. 366; July 22, 1947, 61 Stat. 402, ch. 296, § 1; 1973 Ed., § 47-2302; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 29, 1998, D.C. Law 12-86, § 101(c), 45 DCR 1172.)

**Prior Codifications.** — 1981 Ed., § 47-2802.

1973 Ed., § 47-2302.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 12 of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998 (D.C. Law 12-103, May 8, 1998, law notification 45 DCR 3254).

For temporary (225 day) amendment of section, see § 12(b) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998 (D.C. Law 12-210, April 13, 1999, law notification 46 DCR 3832).

**Emergency legislation.** — For temporary amendment of section, see § 107 of the Fiscal Year 1997 Budget Support Emergency Act of 1996 (D.C. Act 11-302, July 25, 1996, 43 DCR 4181), § 103 of the Fiscal Year 1997 Budget Support Emergency Amendment Act of 1996 (D.C. Act 11-429, October 29, 1996, 43 DCR 6151), and § 103 of the Fiscal Year 1997 Budget Support Congressional Adjournment Emer-

gency Amendment Act of 1997 (D.C. Act 12-2, February 19, 1997, 44 DCR 1590).

**Legislative history of Law 12-86.** — Law 12-86, the "Omnibus Regulatory Reform Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-458, which was referred to the Committee on Public Works and the Environment and the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 19, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 21, 1998, it was assigned Act No. 12-256 and transmitted to both Houses of Congress for its review. D.C. Law 12-86 became effective on April 29, 1998.

**Delegation of Authority.** — Delegation of authority pursuant to an Act Making Appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes, see Mayor's Order 98-139, August 20, 1998 (45 DCR 6591).

**Editor's notes.** — Department of Inspections abolished: The Department of Inspections was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. Reorganization Order No. 55 of the Board of Commissioners, dated June 30, 1953, and amended August 13, 1953, and December 17, 1953, established under the direction and control of a Commissioner, a Department of Licenses and Inspections headed by a Director. The Order set out the purpose, organization, and functions of the new department. The Order provided that all of the functions and positions of the following named organizations were transferred to the new Department of Licenses and Inspections: The Department of Inspections including the Engineering Section, the Building Inspection Section, the Electrical Section, the Elevator Inspection Section, the Fire Safety Inspection, the Plumbing Inspection Section, the Smoke and Boiler Inspection Section, and the Administrative Section, and similarly the Department of Weights, Measures and Markets, the License Bureau, the License Board, the License Committee, the Board of Special Appeals, the Board for the Condemnation of Dangerous and Unsafe Buildings, and the Central Permit Bureau. The Order provided that in accordance with the provisions of Reorganization Plan No. 5 of 1952, the named organizations were abolished. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan

No. 3 of 1967. Functions vested in the Department of Licenses and Inspection by Reorganization Order No. 55 were transferred to the Director of the Department of Economic Development by Commissioner's Order No. 69-96, dated March 7, 1969. The Department of Economic Development was replaced by Mayor's Order No. 78-42, dated February 17, 1978, which Order established the Department of Licenses, Investigation and Inspections.

Office of Chief Engineer abolished: The Office of Chief Engineer of the Fire Department was abolished and all functions of that office transferred to and vested in the Fire Chief. The Deputy Chief Engineer of the Fire Department was designated "Deputy Fire Chief," and the Battalion Chief Engineer was designated "Battalion Fire Chief" by Reorganization Order No. 6, dated September 16, 1952, issued pursuant to Reorganization Plan No. 5 of 1952. Reorganization Order No. 38, dated June 18, 1953, established a Fire Department headed by the Fire Chief. The Fire Chief was given full authority over the Department to be exercised in accordance with applicable laws, rules and regulations. The Order set up the organization of the Department, and provided that the previously existing Fire Department was abolished and its functions transferred to the new Department. This Order was issued pursuant to Reorganization Plan No. 5 of 1952.

D.C. Law 12-261, title II, § 2003(pp)(6) (46 DCR 3142), eff. April 20, 1999, amends § 47-2805 without reference to its prior repeal by D.C. Law 12-86.

## § 47-2803. Revocation of theater license for failure to comply with public decency regulations. [Repealed].

Repealed.

(July 1, 1902, 32 Stat. 623, ch. 1352, § 7, par. 3; July 1, 1932, 47 Stat. 551, ch. 366; 1973 Ed., § 47-2303; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 29, 1998, D.C. Law 12-86, § 101(c), 45 DCR 1172.)

**Prior Codifications.** — 1981 Ed., § 47-2803.

1973 Ed., § 47-2303.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 12 of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998 (D.C. Law 12-103, May 8, 1998, law notification 45 DCR 3254).

For temporary (225 day) amendment of section, see § 12(b) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998 (D.C. Law 12-210, April 13, 1999, law notification 46 DCR 3832).

**Legislative history of Law 12-86.** — For legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 47-2802.

**Editor's notes.** — D.C. Law 12-103, § 12 (45 DCR 1660), eff. May 8, 1998, provided for the temporary amendment of this section subsequent to its repeal by D.C. Law 12-86. Section 16(b) of D.C. Law 12-103 provided for expiration "after 225 days of its having taken effect."

D.C. Law 12-210, § 11(b) (45 DCR 8459), eff. April 13, 1999, provided for the temporary amendment of § 47-2801 without reference to its repeal by D.C. Law 12-86. Section 15(b) of



D.C. Law 12-210 provided for expiration "after 225 days of its having taken effect."

D.C. Law 12-261, title II, § 2003(pp)(6) (46

DCR 3142), eff. April 20, 1999, amends § 47-2805 without reference to its prior repeal by

D.C. Law 12-86.

**§ 47-2804. Separate license for each business, trade, or profession by same person; place of business restricted to that designated in license; operation under license by others prohibited. [Repealed].**

Repealed.

(July 1, 1902, 32 Stat. 623, ch. 1352, § 7, par. 2; July 1, 1932, 47 Stat. 550; ch. 366; July 22, 1947, 61 Stat. 402, ch. 296, § 1; 1973 Ed., § 47-2302; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 29, 1998, D.C. Law 12-86, § 101(c), 45 DCR 1172.)

**Section references.** — This section is referred to in § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2804.

1973 Ed., § 47-2304.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 12 of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998 (D.C. Law 12-103, May 8, 1998, law notification 45 DCR 3254).

For temporary (225 day) amendment of section, see § 12(b) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998 (D.C. Law 12-210, April 13, 1999, law notification 46 DCR 3832).

**Legislative history of Law 7-104.** — For legislative history of D.C. Law 7-104, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-86.** — For legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 47-2802.

**Editor's notes.** — D.C. Law 12-103, § 12 (45 DCR 1660), eff. May 8, 1998, provided for the temporary amendment of this section subsequent to its repeal by D.C. Law 12-86. Section 16(b) of D.C. Law 12-103 provided for expiration "after 225 days of its having taken effect." D.C. Law 12-210, § 11(b) (45 DCR 8459), eff. April 13, 1999, provided for the temporary amendment of § 47-2801 without reference to its repeal by D.C. Law 12-86. Section 15(b) of D.C. Law 12-210 provided for expiration "after 225 days of its having taken effect."

D.C. Law 12-261, title II, § 2003(pp)(6) (46 DCR 3142), eff. April 20, 1999, amends § 47-2805 without reference to its prior repeal by D.C. Law 12-86.

**§ 47-2805. Establishment of licensing periods by Mayor; prorating for late application. [Repealed].**

Repealed.

(July 1, 1902, 32 Stat. 623, ch. 1352, § 7, par. 2; July 1, 1932, 47 Stat. 550; ch. 366; July 22, 1947, 61 Stat. 402, ch. 296, § 1; 1973 Ed., § 47-2302; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 29, 1998, D.C. Law 12-86, § 101(c), 45 DCR 1172.)

**Section references.** — This section is referred to in § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2805.

1973 Ed., § 47-2305.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 12 of Child Support and Welfare Reform

Compliance Temporary Amendment Act of 1998 (D.C. Law 12-103, May 8, 1998, law notification 45 DCR 3254).

For temporary (225 day) amendment of section, see § 12(b) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 1998 (D.C. Law 12-210, April 13, 1999, law notification 46 DCR 3832).

**Legislative history of Law 2-27.** — Law 2-27, the “Variable Licensing Periods Act of 1977,” was introduced in Council and assigned Bill No. 2-126, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on June 28, 1977 and July 12, 1977, respectively. Signed by the Mayor on August 1, 1977, it was assigned Act No. 2-61 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 2-27.** — Law 2-27, the “Licensing Periods Act of 1977,” was introduced in Council and assigned Bill No. 2-204, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on

January 10, 1978 and January 24, 1978, respectively. Approved without the signature of the Mayor on February 9, 1978, it was assigned Act No. 2-148 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 12-86.** — For legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 47-2802.

**References in text.** — “This act”, referred to in the first sentence of this section, is 32 Stat. 590, ch. 1352, approved July 1, 1902.

**Editor’s notes.** — D.C. Law 12-261, title II, § 2003(pp)(6) (46 DCR 3142), eff. April 20, 1999, amends § 47-2805 without reference to its prior repeal by D.C. Law 12-86.

## § 47-2805.01. Establishment of licensing periods by Mayor; prorating for late application.

The Mayor of the District of Columbia shall fix the period for which any license authorized under this subchapter may be issued in a manner consistent with the uniform master [basic] business licensing expiration date provisions as set forth in § 47-2851.09. Licenses issued at any time after the beginning of the license period as set forth in § 47-2851.09 shall date from the first day of the month in which the license was issued and end on the last day of the license period above prescribed, and payment shall be made of the proportionate amount of the bi-annual license fee or tax; provided that where the license fee is \$3 or less the fee shall not be prorated; and provided further, that no fee or tax shall be prorated to an amount less than \$3.

(Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(6), 46 DCR 3142; Apr. 12, 2000, D.C. Law 13-91, § 157(d)(1), 47 DCR 520.)

**Prior Codifications.** — 1981 Ed., § 47-2805.1.

**Legislative history of Law 12-261.** — Law 12-261, the “Second Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

**Legislative history of Law 13-91.** — Law 13-91, the “Technical Amendments Act of 1999,” was introduced in Council and assigned Bill No. 13-435, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 2, 1999, and December 7, 1999, respectively. Signed by the Mayor on December 29, 1999, it was assigned Act No. 13-234 and transmitted to both Houses of Congress for its review. D.C. Law 13-91 became effective on April 12, 2000.

## § 47-2805.02. Requirement for social security number.

The social security number of each applicant for a license issued pursuant to this chapter, for membership in the bar of the District of Columbia Court of Appeals pursuant to § 11-2501, and for any recreational license issued in the District of Columbia shall be recorded on the application. If a number other



than the social security number is used on the face of the license or membership document, the issuing agency or entity shall keep the applicant's social security number on file and the applicant shall be so advised.

(Apr. 3, 2001, D.C. Law 13-269, § 112(c), 48 DCR 1270.)

**Temporary Addition of Section.** — For temporary (225 day) addition of section, see § 111(c) of Child Support and Welfare Reform Compliance Temporary Amendment Act of 2000 (D.C. Law 13-207, March 31, 2001, law notification 48 DCR 3238).

**Emergency legislation.** — For temporary (90 day) addition of section, see § 111(c) of the Child Support and Welfare Reform Compliance Emergency Amendment Act of 2000 (D.C. Act 13-446, November 7, 2000, 47 DCR 9213).

For temporary (90 day) addition of section, see § 112(c) of Child Support and Welfare Reform Compliance Congressional Review Emer-

gency Amendment Act of 2001 (D.C. Act 14-5, February 13, 2001, 48 DCR 2440).

**Legislative history of Law 13-269.** — Law 13-269, the "Child Support and Welfare Reform Compliance Amendment Act of 2000", was introduced in Council and assigned Bill No. 13-254, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on November 8, 2000, and December 5, 2000, respectively. Signed by the Mayor on January 8, 2001, it was assigned Act No. 13-559 and transmitted to both Houses of Congress for its review. D.C. Law 13-269 became effective on April 3, 2001.

## § 47-2806. Licenses to be posted on premises; exhibition to police.

All licenses granted under the terms of this chapter must be conspicuously posted on the premises of the licensee and said licenses shall be accessible at all times for inspection by the police or other officers duly authorized to make such inspections. Licensees having no located place of business shall exhibit their licenses when requested to do so by any of the officers above named.

(July 1, 1902, 32 Stat. 623, ch. 1352, § 7, par. 6; July 1, 1932, 47 Stat. 551, ch. 366; Apr. 30, 1988, D.C. Law 7-104, § 43(c), 35 DCR 147; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2806.

1973 Ed., § 47-2306.

**Legislative history of Law 7-104.** — For legislative history of D.C. Law 7-104, see Historical and Statutory Notes following § 47-2801.

## § 47-2807. Construction and definition of terms.

For the purposes of this chapter, the term "person" shall signify and include firms, corporations, companies, associations, executives, administrators, guardians, or trustees; the term "agent" shall signify and include every person acting for another; the term "merchandise" shall signify and include every article of commerce whether sold in bulk or otherwise; the term "dealers" shall signify and include every person engaged in selling or offering for sale any description of merchandise or property. Words of 1 number shall signify and include words of both numbers, respectively, and words of 1 gender shall signify and include words of every gender, respectively; provided, that nothing in this chapter shall be interpreted as repealing any specific act of Congress or any of the police or building regulations of the District of Columbia regarding

the establishment or conduct of the businesses, trades, professions, or callings named in this chapter and not inconsistent with the provisions of this chapter.

(July 1, 1902, 32 Stat. 623, ch. 1352, § 7, par. 7; July 1, 1932, 47 Stat. 551, ch. 366; Apr. 30, 1988, D.C. Law 7-104, § 43(d), 35 DCR 147; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2807.

1973 Ed., § 47-2307.

**Legislative history of Law 7-104.** — For legislative history of D.C. Law 7-104, see Historical and Statutory Notes following § 47-2801.

## § 47-2808. Auctioneers; temporary licenses; penalty for failure to account.

(a) Auctioneers shall pay a license fee of \$222 per annum.

(b) The Mayor may issue a temporary auctioneer license to a person, firm, partnership, association, organization, or corporation engaged in or existing for charitable, benevolent, eleemosynary, humane, religious, philanthropic, recreational, social, educational, civic, fraternal, or other nonprofit purpose and to a citizen-service program established pursuant to [§ 1-1163.38]. The fee for a temporary auctioneer license shall be \$50. A temporary auctioneer license shall be valid for a period of not more than 7 calendar days as specified on the face of the license. The Mayor may amend the fee to be charged for a temporary auctioneer license to an amount not to exceed the reasonably estimated cost of performing administrative duties pertaining to the issuance of this license in accordance with the provisions of subchapter I of Chapter 5 of Title 2.

(c) No license shall issue hereunder without the approval of the Chief of Police. If any licensed auctioneer or any holder of a temporary auctioneer license, his agent or employee, shall convert to his own use in the District of Columbia any goods, wares, merchandise, or personal property of any description, or the proceeds of the same, and shall fail to pay over the avails or proceeds from the sale thereof, less his proper charges, within 5 days after receiving the money or its equivalent from the purchaser or purchasers of said goods, wares, merchandise, or personal property of any description, and after demand made therefor by the person entitled to receive the same, or his or her duly authorized agent, he shall be deemed guilty of a misdemeanor, and upon information and conviction in the Superior Court of the District of Columbia shall be fined not more than \$1,000 or be imprisoned not exceeding 6 months, or both, in the discretion of the court. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this section, or any rules or regulations issued under the authority of this section, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this chapter shall be pursuant to Chapter 18 of Title 2. Nothing herein contained shall be construed to repeal or alter the provisions of subchapter I of Chapter 27 of this title.

(d) Any permit issued pursuant to this section shall be issued as an



Inspected Sales and Services endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(July 1, 1902, 32 Stat. 623, ch. 1352, § 7, par. 9; July 1, 1932, 47 Stat. 552, ch. 366; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); Sept. 14, 1976, D.C. Law 1-82, title I, § 104(c), 23 DCR 2461; Oct. 5, 1985, D.C. Law 6-42, § 469(a), 32 DCR 4450; Feb. 24, 1987, D.C. Law 6-181, § 2, 33 DCR 7664; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(7), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(4)(A), 50 DCR 6913; Apr. 27, 2012, D.C. Law 19-124, § 501(n)(2), 59 DCR 1862.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2808.

1973 Ed., § 47-2309.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (d), substituted “an Inspected Sales and Services endorsement to a basic business license under the basic” for “a Class A Inspected Sales and Services endorsement to a master business license under the master”.

D.C. Law 19-124, in subsec. (b), substituted “[§ 1-1163.38]” for “§ 1-1104.03”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(hh)(4)(A) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

For temporary (90 day) amendment of section, see § 401(n)(2) of Board of Ethics and Government Accountability Establishment and Comprehensive Ethics Reform Emergency Amendment Act of 2012 (D.C. Act 19-298, January 29, 2012, 59 DCR 683).

**Legislative history of Law 1-82.** — Law 1-82, the “License Fees and Charges Act of 1976,” was introduced in Council and assigned Bill No. 1-237, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 23, 1976 and April 6, 1976, respectively. Signed by the Mayor on June 22, 1976, it was assigned Act No. 1-135 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 6-42.** — Law 6-42, the “Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985,” was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was

adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 6-181.** — Law 6-181, the “Temporary Auctioneer License Amendment Act of 1986,” was introduced in Council and assigned Bill No. 6-222, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 21, 1986 and November 5, 1986, respectively. Signed by the Mayor on November 25, 1986, it was assigned Act No. 6-232 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

**Legislative history of Law 19-124.** — For history of Law 19-124, see notes under § 47-391.08.

**Editor’s notes.** — Office of Major and Superintendent of Metropolitan Police abolished: The Office of the Major and Superintendent of Metropolitan Police was abolished and all functions of that office transferred to and vested in the Chief of Police. The Assistant Superintendent, Executive Officer of the Metropolitan Police Department was designated “Deputy Chief of Police, Executive Officer”; the Assistant Superintendent of the Metropolitan Police in command of the Detective Bureau was designated “Deputy Chief of Police, Chief of Detectives”; and each other Assistant Superintendent of the Metropolitan Police was designated “Deputy Chief of Police” by Reorganization Order No. 7, dated September 16, 1952. Reorganization Order No. 7 was replaced by Organization Order No. 153, dated November 10, 1966.

§ 47-2809. Barbershops and beauty parlors.

(a) Owners or managers of barbershops, beauty parlors, beauty salons, vanity shops, or shingle shops, by whatsoever name called, where hair cutting, hair dressing, hair dyeing, manicuring, and kindred acts are practiced shall pay a license fee of \$60 biennially. In addition, any person who independently leases, rents, or is otherwise authorized to occupy a barbershop chair or a beauty shop booth from the owner of any such shop or establishment shall pay a license fee of \$60 biennially for each such chair or booth so leased, rented or otherwise occupied.

(b) Any license issued pursuant to this section shall be issued as a Public Health: Public Accommodations endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(July 1, 1902, 32 Stat. 624, ch. 1352, § 7, par. 10; July 1, 1932, 47 Stat. 552, ch. 366; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(d), 23 DCR 2461; Sept. 26, 1995, D.C. Law 11-52, § 302(a), 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(8), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(4)(B), 50 DCR 6913.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Section references.** — This section is referred to in § 47-2810.

**Prior Codifications.** — 1981 Ed., § 47-2809.

1973 Ed., § 47-2310.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (b), substituted “Public Health: Public Accommodations endorsement to a basic business license under the basic” for “Class A Public Health: Public Accommodations endorsement to a master business license under the master”.

**Emergency legislation.** — For temporary amendment of section, see § 302(a) of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217) and § 302(a) of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

For temporary amendment of D.C. Act 11-44, see § 303 of the Omnibus Budget Support

Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

For temporary (90 day) amendment of section, see § 3(hh)(4)(B) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2808.

**Legislative history of Law 11-52.** — Law 11-52, the “Omnibus Budget Support Act of 1995,” was introduced in Council and assigned Bill No. 11-218, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 19, 1995, and June 6, 1995, respectively. Signed by the Mayor on July 13, 1995, it was assigned Act No. 11-94 and transmitted to both Houses of Congress for its review. D.C. Law 11-52 became effective on September 26, 1995.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

§ 47-2810. Conventions of national associations of hairdressers or cosmetologists exempted.

The provisions of Chapter 20 [repealed] of Title 3 and of § 47-2809 shall not be applicable to activities conducted in connection with any bona fide regularly scheduled national annual convention of any national association of professional hairdressers or cosmetologists, from which the general public is excluded.



(Aug. 4, 1955, 69 Stat. 485, ch. 544, § 1; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2810.

1973 Ed., § 47-2310a.

## § 47-2811. Massage establishments; Turkish, Russian, or medicated baths.

(a) No person shall offer or administer for commercial purposes a massage unless licensed pursuant to Chapter 12 of Title 3.

(b) Any license issued pursuant to this section shall be issued as a Public Health: Public Accommodations endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(July 1, 1902, 32 Stat. 624, ch. 1352, § 7, par. 11; July 1, 1932, 47 Stat. 552, ch. 366; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(e), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(9), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(4)(C), 50 DCR 6913; Dec. 10, 2009, D.C. Law 18-88, § 224, 56 DCR 7413.)

**Cross references.** — Administrative procedure, generally, see § 2-501 et seq.

Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2811.

1973 Ed., § 47-2311.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (b), substituted “Public Health: Public Accommodations endorsement to a basic business license under the basic” for “Class A Public Health: Public Accommodations endorsement to a master business license under the master”.

D.C. Law 18-88 rewrote subsec. (a), which had read as follows: “(a) Owners or managers of massage establishments and Turkish, Russian, or medicated baths shall pay a license fee of \$300 per annum. No license shall be issued under this section without the approval of the Chief of Police. It shall be unlawful for any female to give or administer massage treatment or any bath to any person of the male sex, or for any person of the male sex to give or administer massage treatment or any bath to any person of the female sex, in any establishment licensed under this section. Any person violating the provisions of this section shall, upon conviction, be punished as hereinafter provided in this chapter; and, in addition to such penalty, it shall be the duty of the Mayor of the District of Columbia to revoke the license of the owner or manager of the establishment wherein the provisions of this section shall have been violated.”

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(hh)(4)(C) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

For temporary (90 day) amendment of section, see § 224 of Omnibus Public Safety and Justice Emergency Amendment Act of 2009 (D.C. Act 18-181, August 6, 2009, 56 DCR 6903).

For temporary (90 day) amendment of section, see § 224 of Omnibus Public Safety and Justice Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-227, October 21, 2009, 56 DCR 8668).

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2808.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

**Legislative history of Law 18-88.** — Law 18-88, the “Omnibus Public Safety and Justice Amendment Act of 2009”, as introduced in Council and assigned Bill No. 18-151, which was referred to the Committee on Public Safety and the Judiciary. The bill as adopted on first and second readings on June 30, 2009, and July 31, 2009, respectively. Signed by the Mayor on August 26, 2009, it was assigned Act No. 18-189 and transmitted to both Houses of Congress for its review. D.C. Law 18-88 became effective on December 10, 2009.

**Editor's notes.** — Office of Major and Superintendent of Metropolitan Police abolished: The Office of the Major and Superintendent of Metropolitan Police was abolished and all functions of that office transferred to and vested in the Chief of Police. The Assistant Superintendent, Executive Officer of the Metropolitan Police Department was designated "Deputy Chief of Police, Executive Officer"; the Assistant Superintendent of the Metropolitan Police in command of the Detective Bureau was designated "Deputy Chief of Police, Chief of Detectives";

and each other Assistant Superintendent of the Metropolitan Police was designated "Deputy Chief of Police" by Reorganization Order No. 7, dated September 16, 1952. Reorganization Order No. 7 was replaced by Organization Order No. 153, dated November 10, 1966.

Exemption of massage therapists: Section 3 of D.C. Law 10-205, as amended by D.C. Law 11-110, provided that persons licensed to practice as a massage therapist under that act are exempt from the provisions of § 47-2811.

## CASE NOTES

### ANALYSIS

Due process rights.  
Powers and duties of judiciary.  
Weight and sufficiency of evidence.

### Due process rights.

Where, on day before occurrence of events resulting in licensed massage parlor manager's conviction, metropolitan police department public information branch had publicized through local television media and press that police were going to resume enforcement of statute prohibiting abetting administration of a cross-sexual massage in a licensed massage parlor, District of Columbia did not fail to provide manager with reasonable prior notice of enforcement of such statute with result that his due process rights were not violated, even though manager contended that only effective method of notice would have been personal notice to all massage parlor operators. D.C. Code § 47-2311; U.S. Const. Amend. 5. *Deinlein v. District of Columbia*, 386 A.2d 296, 1978 D.C. App. LEXIS 513 (1978).

Statute making cross-sexual massages on premises of duly licensed massage establishments unlawful comports with basic due process standards of definiteness and sufficiency of notice as to proscribed conduct, even though such statute does not provide any definition of term "massage treatment," inasmuch as such statute provides ordinary citizen fair and adequate notice that action of rubbing, kneading, or stroking, essence of term "massage" by member of one sex of various parts of body of a member of opposite sex, whether with one's

hands or other instruments, is prohibited on premises of licensed massage parlors. D.C. Code § 47-2311; U.S. Const. Amend. 5. *Deinlein v. District of Columbia*, 386 A.2d 296, 1978 D.C. App. LEXIS 513 (1978).

### Powers and duties of judiciary.

Statute outlawing all cross-sexual massages, for whatever purpose, in licensed massage parlors represents a policy judgment well within province of legislative discretion and District of Columbia Court of Appeals could not substitute a different judgment for that apparently adopted by Legislature in absence of some suggestion, either in statutory language or legislative history, to that effect. D.C. Code § 47-2311. *Deinlein v. District of Columbia*, 386 A.2d 296, 1978 D.C. App. LEXIS 513 (1978).

### Weight and sufficiency of evidence.

In prosecution for violating statute prohibiting abetting and administering a cross-sexual massage in a licensed massage parlor, evidence was sufficient to support convictions. D.C. Code § 47-2311. *Deinlein v. District of Columbia*, 386 A.2d 296, 1978 D.C. App. LEXIS 513 (1978).

Evidence established that defendants' activity was precisely conduct that fell within boundaries of statute proscribing cross-sexual massage on premises of duly licensed massage establishments, even though defendants may not have engaged in such activity for substantial periods of time, inasmuch as statutory infraction was complete after prohibited conduct commenced, no matter what duration of such conduct thereafter. D.C. Code § 47-2311. *Deinlein v. District of Columbia*, 386 A.2d 296, 1978 D.C. App. LEXIS 513 (1978).

## § 47-2812. Public baths.

Owners or managers of establishments where public baths are supplied to transients shall pay a license fee of \$152 per annum.

(July 1, 1902, 32 Stat. 624, ch. 1352, § 7, par. 12; July 1, 1932, 47 Stat. 552, ch. 366; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(f), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)



**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2812.

1973 Ed., § 47-2312.

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2808.

## § 47-2813. Keeping or storing of moving picture films. [Repealed].

Repealed.

(July 1, 1902, 32 Stat. 624, ch. 1352, § 7, par. 13; July 1, 1932, 47 Stat. 552, ch. 366; 1973 Ed., § 47-2313; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(10), 46 DCR 3142.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2813.

1973 Ed., § 47-2313.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

## § 47-2814. Gasoline, kerosene, oils, fireworks, and explosives.

(a) Owners or managers of establishments where gasoline or oils of like grade are sold shall pay a license fee of \$17 per annum for each pump used in dispensing said gasoline or oils.

(b) Owners or managers of establishments where kerosene, oils, or gasoline of like grade are stored underground shall pay a license fee of \$80 per annum, and where such like grade kerosene, oils, or gasoline are stored in above-ground tanks the license fee shall be \$94 per annum.

(c) Owners or managers of establishments where kerosene or like grade is kept for sale shall pay a license fee of \$19 per annum, and where oil or grease of like grade is kept for sale, the license fee shall be \$30 per annum, and where coal is kept for sale, the license fee shall be \$94 per annum, and where kerosene, gasoline, or oil is sold through a metering device, the license fee shall be \$64 per annum.

(d) Owners or managers of establishments where fireworks are stored or are kept for sale at wholesale or at both wholesale and retail shall pay a license fee of \$760. Owners or managers of establishments where fireworks are kept for sale at retail shall pay a license fee of \$100.

(e) Owners or managers of establishments where explosives of any kind, including ammunition but excluding fireworks, are stored or are kept for sale at wholesale or at both wholesale and retail shall pay a license fee of \$760. Owners or managers of establishments where explosives of any kind, including ammunition but excluding fireworks, are kept for sale at retail shall pay a license fee of \$47.

(f) No license shall be issued under this section without the approval of the Fire Marshal of the District of Columbia.

(g) Any license issued pursuant to this section shall be issued as an Environmental Materials endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(July 1, 1902, 32 Stat. 624, ch. 1352, § 7, par. 14; July 1, 1932, 47 Stat. 552, ch. 366; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(g), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(11), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(4)(D), 50 DCR 6913.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

Mayor, Council and other offices, police power regulations, authorization, see § 1-303.01.

Mayor, Council and other offices, weapons regulation, authorization, see § 1-303.43.

Retail service stations, declaration of intent to sell, supply or distribute motor fuels, notice of intent to discontinue, see § 36-302.01.

**Prior Codifications.** — 1981 Ed., § 47-2814.

1973 Ed., § 47-2314.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (g), substituted “an Environmental Materials endorsement to a basic business li-

cense under the basic” for “a Class A Environmental Materials endorsement to a master business license under the master”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(hh)(4)(D) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2808.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

## § 47-2815. Pyroxylin.

(a) Owners or managers of establishments where pyroxylin is kept or stored for painting or spraying shall pay a license fee of \$50 per annum. No license shall issue hereunder without the approval of the Fire Marshal of the District of Columbia.

(b) Any license issued pursuant to this section shall be issued as an Environmental Materials endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(July 1, 1902, 32 Stat. 624, ch. 1352, § 7, par. 15; July 1, 1932, 47 Stat. 552, ch. 366; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(h), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(12), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(4)(E), 50 DCR 6913.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2815.

1973 Ed., § 47-2315.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (b), substituted “an Environmental Materials endorsement to a basic business license under the basic” for “a Class A Environ-

mental Materials endorsement to a master business license under the master”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(hh)(4)(E) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2808.

**Legislative history of Law 12-261.** — For



legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

## § 47-2816. Abattoirs or slaughterhouses. [Repealed].

Repealed.

(July 1, 1902, 32 Stat. 624, ch. 1352, § 7, par. 16; July 1, 1932, 47 Stat. 553, ch. 366; Aug. 1, 1950, 64 Stat. 393, ch. 513, § 1; 1973 Ed., § 47-2316; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(13), 46 DCR 3142.)

**Section references.** — This section is referred to in § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2816.

1973 Ed., § 47-2316.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Editor's notes.** — Office of Director of Public Health abolished: Section 1 of the Act of August 1, 1950, 64 Stat. 393, ch. 513, provided that the Health Officer of the District of Columbia would be known as the Director of Public Health. The Health Department of the District of Columbia, including the office of the head thereof, was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. Reorganization Order No. 57 of the Board of Commissioners, dated June 30, 1953, and Reorganization Order No. 52, dated June 30, 1953, combined and redesignated Organization Order No. 141, dated February 11, 1964, established under the direction and control of a Commissioner, a Department of Public Health headed by a Di-

rector, for the purpose of planning, implementing, and directing public health and hospital care programs, and for performing certain other allied medical and paramedical functions. The Anatomical Board was established under the direction and control of the Director of Public Health consisting of members as prescribed in the D.C. Code. The Order prior to redesignation abolished the previously existing Health Department, Gallinger Hospital, Glenn Dale Sanatorium, and the Anatomical Board and transferred their functions and positions to the new Department. The organization of the new Department was set out in the Order. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Functions stated in Organization Order No. 141 were transferred to the Director of the Department of Human Resources by Commissioner's Order No. 69-96, dated March 7, 1969, as amended by Commissioner's Order No. 70-83, dated March 6, 1970. The Department of Human Resources was replaced by Reorganization Plan No. 2 of 1979, dated February 21, 1980, which Plan established the Department of Human Services.

## § 47-2817. Laundries; dry cleaning and dyeing establishments.

(a) Owners or managers of laundries operated other than by hand power shall pay a license fee of \$188 biennially.

(b) Repealed.

(c)(1) Owners or managers of dry cleaning or dyeing establishments shall pay a license fee of \$222 biennially.

(2) Any license issued pursuant to this subsection shall be issued as an Environmental Materials endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(d) Any license issued pursuant to this section, shall be in addition to those required under subsection (c)(2) of this section, if any, and shall be issued as a General Services and Repair endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(July 1, 1902, 32 Stat. 625, ch. 1352; § 7, par. 17; July 1, 1932, 47 Stat. 553, ch. 366; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(i), 23 DCR 2461; Sept. 26, 1995, D.C. Law 11-52, § 302(b), 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(14), 46 DCR 3142; Apr. 12, 2000, D.C. Law 13-91, § 157(d)(2), 47 DCR 520; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(4)(F), 50 DCR 6913.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2817.

1973 Ed., § 47-2317.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (c)(2), substituted “an Environmental Materials endorsement to a basic business license under the basic” for “a Class A Environmental Materials endorsement to a master business license under the master”; and in subsec. (d), substituted “General Services and Repair endorsement to a basic business license under the basic” for “Class B General Services and Repair endorsement to a master business license under the master”.

**Emergency legislation.** — For temporary amendment of section, see § 302(b) of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217) and § 302(b) of the Omnibus Budget Support

Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

For temporary amendment of D.C. Act 11-44, see § 303 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

For temporary (90 day) amendment of section, see § 3(hh)(4)(F) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2808.

**Legislative history of Law 11-52.** — For legislative history of D.C. Law 11-52, see Historical and Statutory Notes following § 47-2809.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

## § 47-2818. Mattress manufacture, renovation, storage, or sale; “mattress” defined.

(a)(1) Persons engaged in the business of manufacturing or renovating mattresses shall pay a license fee of \$476 biennially.

(2) Any license issued pursuant to this subsection shall be issued as a Manufacturing endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(b)(1) Owners or managers of establishments where mattresses are stored, sold, or kept for sale shall pay a license fee of \$34 biennially.

(2) Any license issued pursuant to this subsection shall be issued as a General Sales endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(c) Within the meaning of this section, the term “mattress” shall be deemed to include any quilt, comforter, pad, pillow, cushion, or bag stuffed with hair, down, feathers, wool, cotton, excelsior, jute, or any other soft material and designed for use for sleeping or reclining purposes.

(July 1, 1902, 32 Stat. 625, ch. 1352, § 7, par. 18; July 1, 1932, 47 Stat. 553, ch. 366; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(j), 23 DCR 2461; Sept. 26, 1995, D.C. Law 11-52, § 302(c), 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(15), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(4)(G), 50 DCR 6913.)



**Cross references.** — Mattresses, manufacture, renovation and sale, see § 8-501 et seq.

Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2818.

1973 Ed., § 47-2318.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (a)(2), substituted “Manufacturing endorsement to a basic business license under the basic” for “Class A Manufacturing endorsement to a master business license under the master”; and in subsec. (b)(2), substituted “General Sales endorsement to a basic business license under the basic” for “Class B General Sales endorsement to a master business license under the master”.

**Emergency legislation.** — For temporary amendment of section, see § 302(c) of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217) and § 302(c) of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

Section 303(c) of D.C. Law 11-52 amended § 302 of D.C. Act 11-44 by substituting “biennially” for “biannually” wherever that phrase appears.

For temporary amendment of D.C. Act 11-44, see § 303 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

For temporary (90 day) amendment of section, see § 3(hh)(4)(G) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2808.

**Legislative history of Law 11-52.** — For legislative history of D.C. Law 11-52, see Historical and Statutory Notes following § 47-2809.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

## § 47-2819. Slot machines. [Repealed].

Repealed.

(July 1, 1902, 32 Stat. 625, ch. 1352, § 7, par. 19; July 1, 1932, 47 Stat. 553, ch. 366; 1973 Ed., § 47-2319; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(k), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(16), 46 DCR 3142.)

**Section references.** — This section is referred to in § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2819.

1973 Ed., § 47-2319.

**Legislative history of Law 1-82.** — For

legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2808.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

## § 47-2820. Theaters, moving pictures, skating rinks, dances, exhibitions, lectures, entertainments; assignment of police and firemen and additional fees based thereon; hours minors are prohibited on premises.

(a) Owners or managers of theaters in which moving pictures are displayed, for profit or gain, shall pay a license fee of \$830 biennially.

(b) Owners or managers of buildings in which skating rinks, fairs, carnivals, balls, dances, exhibitions, lectures, or entertainments of any description including theatrical or dramatic performances of any kind are conducted, for profit or gain, shall pay a license fee of \$500 per annum; provided, that for entertainments, concerts, or performances of any kind where the proceeds are intended for church or charitable purposes, and where no rental is charged, no

license shall be required; provided further, that when, in the opinion of the Chief of Police and the Fire Chief of the District of Columbia, or either of them, it is necessary to post policemen or firemen, or both, at, on, and about the licensed premises for the protection of the public safety, in addition to the license fee provided for above, such owners or managers shall pay a further monthly permit fee, to be determined monthly by the said Chief of Police and Fire Chief, or either of them, based upon a reasonable estimate of the number of hours to be spent by policemen and firemen at, on, and about the licensed premises, this fee to be payable in advance on the first day of the month for which the permit is sought. Policemen and firemen so assigned shall be charged for by the hour at the basic daily wage rate of policemen and firemen so assigned in effect the first day of the month for which the permit is sought.

(b-1)(1)(A) Before granting or renewing a license under subsection (b) of this section, the Mayor shall give 30-days notice by mail to the affected Advisory Neighborhood Commission and by publication in the District of Columbia Register. The notice shall contain the name of the applicant and a description, by street and number, or other plain designation, of the particular location for which the license is requested. The notice shall state that any resident or owner of residential property within 600 feet of the boundary lines of the lot upon which is situated the establishment for which the license is requested who objects to the granting of the license is entitled to be heard before the granting or renewal of the license and shall name the time and place of the hearing.

(B) The applicant shall post 2 notices for a period of 4 weeks in conspicuous places on the outside of the premises. The notices to be posted shall state that any resident or owner of residential property within 600 feet of the boundary lines of the lot upon which is situated the establishment for which the license is requested who objects to the license is entitled to be heard before the granting or renewal of the license and shall name the same time and place for the hearing as set out in the notice mailed and published by the Mayor.

(C) If an objection to the granting or renewal of the license is filed, no final action shall be taken by the Mayor until the resident or owner of residential property within 600 feet of the boundary lines of the lot upon which is situated the establishment for which the license is requested who objects has an opportunity to be heard, under the rules and regulations to be issued by the Mayor.

(2) Upon objection, a hearing shall be held by the Mayor to determine the following:

(A) The effect of the establishment on the peace, order, and quiet of the neighborhood or portion of the District of Columbia; and

(B) The effect of the establishment on the residential parking needs and vehicular and pedestrian safety of the neighborhood.

(3) The Mayor shall rule on the application within 30 days of the hearing.

(4) The license shall be renewed annually.

(b-2) Any applicant who holds a valid class C or D license issued pursuant to Chapter 1 of Title 25 and who holds a certificate of occupancy for less than



401 persons shall be exempt from the provisions of subsection (b)(1) of this section.

(c)(1) Except as provided in paragraph (2) of this subsection, after 11:30 p.m. on Sundays through Thursdays except days preceding holidays and after 1:00 a.m. on Saturdays, Sundays, and legal holidays until 8:00 a.m. of each day, owners or managers of facilities licensed under the provisions of this section shall not permit any minor to be present on the licensed premises.

(2) Paragraph (1) of this subsection shall not apply to owners or managers:

(A) Of theaters when displaying moving pictures; or

(B) Of buildings in which fairs, carnivals, exhibitions, lectures, and theatrical or dramatic performances are being conducted.

(d) The Department of Consumer and Regulatory Affairs shall suspend the license of any licensee determined to have violated the provisions of subsection (c) of this section. The period of suspension shall not exceed 1 year for each violation. A licensee alleged to be in violation shall be entitled to a hearing in accordance with § 1-1509.

(e) Any license issued pursuant to this section shall be issued as an Entertainment endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(July 1, 1902, 32 Stat. 625, ch. 1352, § 7, par. 20; July 1, 1932, 47 Stat. 553, ch. 366; June 29, 1948, 62 Stat. 1109, ch. 735, §§ 1, 2; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(l), 23 DCR 2461; Mar. 11, 1988, D.C. Law 7-88, § 2, 35 DCR 164; Sept. 29, 1992, D.C. Law 9-160, § 2, 39 DCR 5694; Sept. 26, 1995, D.C. Law 11-52, § 302(d), 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(17), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(4)(H), 50 DCR 6913; Sept. 30, 2004, D.C. Law 15-187, § 302(a), 51 DCR 6525; Apr. 13, 2005, D.C. Law 15-354, § 73(l)(1), 52)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2820.

1973 Ed., § 47-2320.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (e), substituted “an Entertainment endorsement to a basic business license under the basic” for “a Class A Entertainment endorsement to a master business license under the master”.

D.C. Law 15-187, in subsec. (b-2), substituted “Title 25, and which holds a certificate of occupancy for less than 401 persons,” for “Title 25 shall be exempt from the provisions of subsection (b-1)”.

D.C. Law 15-354, in subsec. (b-2), validated a previously made technical correction.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section,

see § 2 of District of Columbia Public Hall Regulation Temporary Amendment Act of 1991 (D.C. Law 9-23, August 17, 1991, law notification 38 DCR 5790).

For temporary (225 day) amendment of section, see § 2(b), (c), of District of Columbia Public Hall Regulation Temporary Amendment Act of 1992 (D.C. Law 9-131, July 22, 1992, law notification 39 DCR 5812).

**Temporary Addition of Section.** — Sections 2 through 4 of D.C. Law 15-201, as amended by section 2 of D.C. Law 15-314, added provisions to read as follows:

“Sec. 2. Definitions.

“For the purposes of this act, the term:

“(1) ‘Congestion’ means the significant increase in vehicular or foot traffic within the police service area where the venue is operated over a period of time not to exceed 8 hours that is associated with patrons congregating to attend and leave the venue.

“(2) ‘Reimbursable detail’ means an assignment of on-duty officers of the Metropolitan

Police Department to patrol the surrounding area of each entrance of a public venue for the purpose of maintaining public safety, including the remediation of traffic congestion and the safety of public patrons, during their approach and departure from the venue.

“(3) ‘Venue’ means a place where the congregation of the public leads to:

“(A) Street closures;

“(B) Traffic congestion; or

“(C) Unusual and significant increases in foot or vehicular traffic within or surrounding the entrance of a commercial building, place of public assembly, establishment required to have a license under D.C. Official Code § 25-102, school, public hall or any establishment or private function, or parking lots regularly used to attend functions at these places.

“(4) ‘Venue operator’ means an individual, corporation or proprietorship with a license to hold an event for-profit at an establishment that leads to congestion surrounding the venue.”

“Sec. 3. Responsibility of venue operators.

“All regular venue operators shall meet with the Metropolitan Police Department (‘MPD’) to develop an agreement with the MPD when holding a function for profit that leads to an unusual and significant increase in foot or vehicular traffic to and from the police service area where the venue is located. This agreement shall:

“(1) Provide procedures for the venue operator to inform the MPD when congestion of city streets within the police service area where the venue is located is expected to occur;

“(2) Provide procedures for establishing reimbursable details at each venue as requested by the venue operator;

“(3) Provide procedures for compensation of the MPD when reimbursable details are requested by the venue operator; and

“(4) Provide the MPD with the obligation to staff reimbursable details as requested by the venue operator.”

“Sec. 4. Responsibility of the Metropolitan Police Department.

“(a) Subject to adequate staffing of the police service areas, the MPD shall staff reimbursable details as requested by venue operators. Where a venue results in unusual and significant increases in vehicular or foot traffic and congestion of city streets, the MPD may establish a detail and charge the venue operator or group of venue operators for the presence of those MPD officers required to maintain the flow of traffic and public safety within the police service area where the venue is located.

“(b) Nothing in this section shall be construed as authorizing the Metropolitan Police Department to charge operators of not-for-profit events for MPD details at a venue or within the police service area where the venue is located.”

Section 6(b) of D.C. Law 15-201 provided that the act shall expire after 225 days of its having taken effect.

Section 4(b) of D.C. Law 15-314 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary amendment of section, see § 302(d) of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217) and § 302(d) of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27,

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2808.

**Legislative history of Law 7-88.** — Law 7-88, the “District of Columbia Public Hall Regulation Amendment Act of 1987,” was introduced in Council and assigned Bill No. 7-220, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on November 24, 1987 and December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-126 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 9-160.** — Law 9-160, the “District of Columbia Public Hall Regulation Amendment Act of 1992,” was introduced in Council and assigned Bill No. 9-328, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 2, 1992, and July 7, 1992, respectively. Signed by the Mayor on July 21, 1992, it was assigned Act No. 9-254 and transmitted to both Houses of Congress for its review. D.C. Law 9-160 became effective on September 29, 1992.

**Legislative history of Law 11-52.** — For legislative history of D.C. Law 11-52, see Historical and Statutory Notes following § 47-2809.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

**Legislative history of Law 15-187.** — Law 15-187, the “Omnibus Alcoholic Beverage Amendment Act 2004,” was introduced in Council and assigned Bill No. 15-516, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on April 20, 2004, and May 18, 2004, respectively. Signed by the Mayor on June 23, 2004, it was assigned Act No. 15-442 and transmitted to both Houses of Congress for its review. D.C. Law 15-187 became effective on September 30, 2004.



**Legislative history of Law 15-201.** — Law 15-201, the “Public Congestion and Venue Protection Temporary Act of 2004”, was introduced in Council and assigned Bill No. 15-860, and was retained by Council. The Bill was adopted on first and second readings on June 1, 2004, and June 29, 2004, respectively. Signed by the Mayor on July 19, 2004, it was assigned Act No. 15-475 and transmitted to both Houses of Congress for its review. D.C. Law 15-201 became effective on December 7, 2004.

**Legislative history of Law 15-314.** — Law 15-314, the “Public Congestion and Venue Protection Temporary Amendment Act of 2004”, was introduced in Council and assigned Bill No. 15-1099, and was retained by Council. The Bill was adopted on first and second readings on November 9, 2004, and December 7, 2004, respectively. Signed by the Mayor on December 29, 2004, it was assigned Act No. 15-711 and transmitted to both Houses of Congress for its review. D.C. Law 15-314 became effective on April 8, 2005.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

**References in text.** — Title 25, referred to in subsection (b-2) of this section, was amended and enacted by D.C. Law 13-298, effective May 3, 2001. Chapter 1 of former Title 25 embraced all sections in that title. For current provisions of Title 25, see § 25-101 et seq.

**Delegation of Authority.** — Delegation of authority under D.C. Law 9-160, the District of Columbia Public Hall Regulation Amendment Act of 1992, see Mayor’s Order 92-130, October 22, 1992.

Delegation of authority under D.C. Law 9-160, the District of Columbia Public Hall Regulation Amendment Act of 1992, see Mayor’s Order 92-130, October 22, 1992.

**Editor’s notes.** — Office of Major and Superintendent of Metropolitan Police abolished: The Office of the Major and Superintendent of Metropolitan Police was abolished and all functions of that office transferred to and vested in the Chief of Police. The Assistant Superintendent, Executive Officer of the Metropolitan Police Department was designated “Deputy Chief of Police. Executive Officer”; the Assistant Superintendent of the Metropolitan Police in command of the Detective Bureau was designated “Deputy Chief of Police, Chief of Detectives”; and each other Assistant Superintendent of the Metropolitan Police was designated “Deputy Chief of Police” by Reorganization Order No. 7, dated September 16, 1952. Reorganization Order No. 7 was replaced by Organization Order No. 153, dated November 10, 1966.

Office of Chief Engineer abolished: The Office of Chief Engineer of the Fire Department was abolished and all functions of that office transferred to and vested in the Fire Chief. The Deputy Chief Engineer of the Fire Department was designated “Deputy Fire Chief,” and the Battalion Chief Engineer was designated “Battalion Fire Chief” by Reorganization Order No. 6, dated September 16, 1952, issued pursuant to Reorganization Plan No. 5 of 1952. Reorganization Order No. 38, dated June 18, 1953, established a Fire Department headed by the Fire Chief. The Fire Chief was given full authority over the Department to be exercised in accordance with applicable laws, rules and regulations. The Order set up the organization of the Department, and provided that the previously existing Fire Department was abolished and its functions transferred to the new Department. This Order was issued pursuant to Reorganization Plan No. 5 of 1952.

## CASE NOTES

### ANALYSIS

In general.

Validity.

### In general.

Defendant was not prejudiced by any consideration by trial court of testimony regarding sexual activities at the club even though he was not charged with any offense relating to those activities, and his 30-day jail sentence was well within 90-day maximum permitted on conviction for maintaining public hall without license. D.C. Code 1981, § 47-2820. *Sobin v. District of Columbia*, 494 A.2d 1272, 1985 D.C. App. LEXIS 425 (1985), writ of certiorari denied by 474 U.S. 860, 106 S. Ct. 173, 88 L. Ed. 2d 144, 1985 U.S. LEXIS 3799, 54 U.S.L.W. 3227 (1985).

### Validity.

Dancing and showing of moving pictures at

club, even if not main attractions at club, and only incidental to club’s more erotic activities, coupled with admission fee, plainly required license under D.C. Code 1981, § 47-2820, and evidence demonstrated that club had no license; thus, defendant who operated club lacked standing to challenge remainder of that statute contending that phrase “entertainments of any description” was unconstitutionally vague. *Sobin v. District of Columbia*, 494 A.2d 1272, 1985 D.C. App. LEXIS 425 (1985), writ of certiorari denied by 474 U.S. 860, 106 S. Ct. 173, 88 L. Ed. 2d 144, 1985 U.S. LEXIS 3799, 54 U.S.L.W. 3227 (1985).

**§ 47-2821. Bowling alleys; billiard and pool tables; games.**

(a) Owners or managers of establishments where bowling alleys, billiard or pool tables, or any table, alley, or board upon which legitimate games are played, shall, when they are operated or conducted for public use, or for profit or gain, pay a license tax of \$39 per annum for each such alley, board, or table. No license shall issue under this section without the approval of the Chief of Police; provided, that in case of refusal of said Chief of Police to approve said license, or upon written protest of a majority or more of the property owners or residents of the block in which it is proposed to grant such license, an appeal may be taken to the Mayor of the District of Columbia, whose decision shall be final.

(b) Any license issued pursuant to this section shall be issued as an Entertainment endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(July 1, 1902, 32 Stat. 625, ch. 1352, § 7, par. 21; July 1, 1932, 47 Stat. 553, ch. 366; Apr. 14, 1937, 50 Stat. 63, ch. 77; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(m), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(18), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-32, § 2, 50 DCR 6565; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(4)(I), 50 DCR 6913.)

**Cross references.** — Administrative procedure, generally, see § 2-501 et seq.

Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2821.

1973 Ed., § 47-2321.

**Effect of amendments.** — D.C. Law 15-32, in subsec. (a), deleted the last sentence which had read as follows: "All establishments licensed under this section shall be closed during the entire 24 hours of each and every Sunday and between the hours of 1:00 a.m. and 8:00 a.m. on the secular days of the week; provided, however, that bowling alley establishments licensed under this section shall be closed at midnight on Saturday night and shall remain closed until 2:00 p.m."

D.C. Law 15-38, in subsec. (b), substituted "an Entertainment endorsement to a basic business license under the basic" for "a Class A Entertainment endorsement to a master business license under the master".

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2 of Bowling Alley and Billiard Parlor Temporary Act of 2002 (D.C. Law 14-289, April 4, 2003, law notification 50 DCR 5847).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2 of Bowling Alley and Billiard Parlor Emergency Act of 2002 (D.C. Act 14-594, January 7, 2003, 50 DCR 644).

For temporary (90 day) amendment of section, see § 3(hh)(4)(I) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2808.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-32.** — Law 15-32, the "Bowling Alley and Billiard Parlor Act of 2003", was introduced in Council and assigned Bill No. 15-4, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 3, 2003, and July 8, 2003, respectively. Signed by the Mayor on July 29, 2003, it was assigned Act No. 15-108 and transmitted to both Houses of Congress for its review. D.C. Law 15-32 became effective on October 28, 2003.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

**Editor's notes.** — Office of Major and Superintendent of Metropolitan Police abolished: The Office of the Major and Superintendent of Metropolitan Police was abolished and all functions of that office transferred to and vested in the Chief of Police. The Assistant Superintendent, Executive Officer of the Metropolitan Police Department was designated "Deputy Chief



of Police, Executive Officer"; the Assistant Superintendent of the Metropolitan Police in command of the Detective Bureau was designated "Deputy Chief of Police, Chief of Detectives"; and each other Assistant Superintendent of the

Metropolitan Police was designated "Deputy Chief of Police" by Reorganization Order No. 7, dated September 16, 1952. Reorganization Order No. 7 was replaced by Organization Order No. 153, dated November 10, 1966.

## § 47-2822. Shooting galleries. [Repealed].

Repealed.

(July 1, 1902, 32 Stat. 625, ch. 1352, § 7, par. 22; July 1, 1932, 47 Stat. 554, ch. 366; 1973 Ed., § 47-2322; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(19), 46 DCR 3142.)

**Section references.** — This section is referred to in § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2822.

1973 Ed., § 47-2322.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Editor's notes.** — Office of Inspector of Buildings abolished: Section 3 of the Act of December 20, 1944, 58 Stat. 822, ch. 611, transferred all the duties, powers, rights, and authority of the Inspector of Buildings of the District of Columbia to the Director of Inspection of the District of Columbia. The Department of Inspections was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. Reorganization Order No. 55 of the Board of Commissioners, dated June 30, 1953, and amended August 13, 1953, and December 17, 1953, established under the direction and control of a Commissioner, a Department of Licenses and Inspections headed by a Director. The Order set out the purpose, organization, and functions of the new department. The Order provided that all of the functions and positions of the following named organizations were transferred to the new Department of Licenses and Inspections: The Department of Inspections including the Engineering Section, the Building Inspection Section, the Electrical Section, the Elevator Inspection Section, the Fire Safety Inspection Section, the Plumbing Inspection Section, the Smoke and Boiler Inspection Section, and the Administrative Section, and similarly the Department of Weights, Measures and Markets,

the License Bureau, the License Board, the License Committee, the Board of Special Appeals, the Board for the Condemnation of Dangerous and Unsafe Buildings, and the Central Permit Bureau. The Order provided that in accordance with the provisions of Reorganization Plan No. 5 of 1952, the named organizations were abolished. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Functions vested in the Department of Licenses and Inspection by Reorganization Order No. 55 were transferred to the Director of the Department of Economic Development by Commissioner's Order No. 69-96, dated March 7, 1969. The Department of Economic Development was replaced by Mayor's Order No. 78-42, dated February 17, 1978, which Order established the Department of Licenses, Investigation and Inspections.

Office of Major and Superintendent of Metropolitan Police abolished: The Office of the Major and Superintendent of Metropolitan Police was abolished and all functions of that office transferred to and vested in the Chief of Police. The Assistant Superintendent, Executive Officer of the Metropolitan Police Department was designated "Deputy Chief of Police, Executive Officer"; the Assistant Superintendent of the Metropolitan Police in command of the Detective Bureau was designated "Deputy Chief of Police, Chief of Detectives"; and each other Assistant Superintendent of the Metropolitan Police was designated "Deputy Chief of Police" by Reorganization Order No. 7, dated September 16, 1952. Reorganization Order No. 7 was replaced by Organization Order No. 153, dated November 10, 1966.

## § 47-2823. Baseball, football, and athletic exhibitions; assignment of police and firemen; amusement parks.

(a)(1) Owners or managers of grounds used for baseball, football, or other

athletic exhibitions to which an admission fee is charged, directly or indirectly, shall pay a license fee of \$17 per annum.

(2) When, in the opinion of the Chief of Police and Fire Chief of the District of Columbia, or either of them, it is necessary to post policemen or firemen, or both, at, on, and about the licensed premises for the protection of the public safety, in addition to the license fee provided for above, such owners or managers shall pay a further monthly permit fee, to be determined monthly by the said Chief of Police and Fire Chief, or either of them, based upon a reasonable estimate of the number of hours to be spent by policemen and firemen, or either of them, at, on, and about the licensed premises, such fee to be payable in advance on the first day of the month for which the permit is sought. Policemen and firemen so assigned shall be charged for by the hour at the basic hourly wage rate of the policemen and firemen so assigned in effect on the first day of the month for which the permit is sought.

(b) Owners or managers of grounds used for amusement parks, to which an admission is charged, directly or indirectly, other than those used for athletic exhibitions, shall pay a license fee of \$208 per annum. Annual licenses issued under this section shall date from April 1st in each year.

(c) Any license issued pursuant to this section shall be issued as an Entertainment endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(July 1, 1902, 32 Stat. 625, ch. 1352, § 7, par. 23; July 1, 1932, 47 Stat. 554, ch. 366; June 29, 1948, 62 Stat. 1109, ch. 735, § 3; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(n), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(20), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(4)(J), 50 DCR 6913.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2823.

1973 Ed., § 47-2323.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (c), substituted “an Entertainment endorsement to a basic business license under the basic” for “a Class A Entertainment endorsement to a master business license under the master”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(hh)(4)(J) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2808.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

**Editor's notes.** — Office of Major and Superintendent of Metropolitan Police abolished: The Office of the Major and Superintendent of Metropolitan Police was abolished and all functions of that office transferred to and vested in the Chief of Police. The Assistant Superintendent, Executive Officer of the Metropolitan Police Department was designated “Deputy Chief of Police, Executive Officer”; the Assistant Superintendent of the Metropolitan Police in command of the Detective Bureau was designated “Deputy Chief of Police, Chief of Detectives”; and each other Assistant Superintendent of the Metropolitan Police was designated “Deputy Chief of Police” by Reorganization Order No. 7, dated September 16, 1952. Reorganization Order No. 7 was replaced by Organization Order No. 153, dated November 10, 1966.

Office of Chief Engineer abolished: The Office of Chief Engineer of the Fire Department was abolished and all functions of that office transferred to and vested in the Fire Chief. The Deputy Chief Engineer of the Fire Department was designated “Deputy Fire Chief,” and the Battalion Chief Engineer was designated “Battalion Fire Chief” by Reorganization Order No.



6, dated September 16, 1952, issued pursuant to Reorganization Plan No. 5 of 1952. Reorganization Order No. 38, dated June 18, 1953, established a Fire Department headed by the Fire Chief. The Fire Chief was given full authority over the Department to be exercised in accordance with applicable laws, rules and reg-

ulations. The Order set up the organization of the Department, and provided that the previously existing Fire Department was abolished and its functions transferred to the new Department. This Order was issued pursuant to Reorganization Plan No. 5 of 1952.

## § 47-2824. Swimming pools.

(a) Owners or managers of swimming pools, indoor or outdoor, shall pay a license fee of \$319 per annum.

(b) Any license issued pursuant to this section shall be issued as a Public Health: Public Accommodations endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(July 1, 1902, 32 Stat. 625, ch. 1352, § 7, par. 24; July 1, 1932, 47 Stat. 554, ch. 366; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(o), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(21), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(4)(K), 50 DCR 6913.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2824.

1973 Ed., § 47-2324.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (b), substituted “Public Health: Public Accommodations endorsement to a basic business license under the basic” for “Class A Public Health: Public Accommodations endorsement to a master business license under the master”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(hh)(4)(K) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2808.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

## § 47-2825. Circuses.

(a) Proprietors or owners of a circus transported by railroad into the District of Columbia shall pay a license fee of \$19 per day for each carload of circus equipment, and proprietors or owners of any circus transported by wagons or motor trucks into the District of Columbia shall pay a license tax of \$14 per day for each motortruck load or wagon load of circus equipment, but not to exceed \$875 per day.

(b) Any license issued pursuant to this section shall be issued as an Entertainment endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(July 1, 1902, 32 Stat. 626, ch. 1352, § 7, par. 25; July 1, 1932, 47 Stat. 554, ch. 366; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(p), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(22), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(4)(L), 50 DCR 6913.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2825.

1973 Ed., § 47-2325.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (b), substituted “an Entertainment endorsement to a basic business license under the basic” for “a Class A Entertainment endorsement to a master business license under the master”.

**Emergency legislation.** — For temporary

(90 day) amendment of section, see § 3(hh)(4)(L) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2808.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

## § 47-2826. Special events.

(a) Owners, managers, or promoters of carnivals or fairs, by whatsoever name called, conducted for profit or gain, and not held in any building or structure licensed under this chapter, shall pay a license fee of \$158 per day.

(b) The Mayor may adjust the license fee set in subsection (a) of this section to cover the costs to the District of providing police, fire, and other public services that are necessary to protect public health and safety. All funds received but not expended in a fiscal year shall revert to the unrestricted fund balance of the General Fund of the District of Columbia.

(c) Any license issued pursuant to this section shall be issued as an Entertainment endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(July 1, 1902, 32 Stat. 626, ch. 1352, § 7, par. 26; July 1, 1932, 47 Stat. 554, ch. 366; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(q), 23 DCR 2461; Mar. 16, 1995, D.C. Law 10-224, § 2(a), 41 DCR 8055; Mar. 21, 1995, D.C. Law 10-234, § 2(a), 42 DCR 28; Apr. 9, 1997, D.C. Law 11-198, § 105, 44 DCR 1730; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(23), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(4)(M), 50 DCR 6913; Sept. 14, 2011, D.C. Law 19-21, § 9034, 58 DCR 6226.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2826.

1973 Ed., § 47-2326.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (c), substituted “an Entertainment endorsement to a basic business license under the basic” for “a Class A Entertainment endorsement to a master business license under the master”.

D.C. Law 19-21, in subsec. (b), inserted “All funds received but not expended in a fiscal year shall revert to the unrestricted fund balance of the General Fund of the District of Columbia.”

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section,

see § 1201(a) of Budget Spending Reduction Temporary Amendment Act of 1994 (D.C. Law 10-253, March 23, 1995, law notification 42 DCR 1652).

For temporary (225 day) amendment of section, see § 103 of Fiscal Year 1997 Budget Support Temporary Amendment Act of 1996 (D.C. Law 11-226, April 9, 1997, law notification 46 DCR 2584).

**Emergency legislation.** — For temporary amendment of section, see § 2(a) of the Budget Spending Reduction Emergency Amendment Act of 1994 (D.C. Act 10-339, November 22, 1994, 41 DCR 7702) and § 2(a) of the Budget Spending Reduction Congressional Adjournment Emergency Amendment Act of 1995 (D.C. Act 11-13, February 28, 1995, 42 DCR 1162).

For temporary amendment of section, see § 107 of the Fiscal Year 1997 Budget Support



Emergency Act of 1996 (D.C. Act 11-302, July 25, 1996, 43 DCR 4181), and see § 103 of the Fiscal Year 1997 Budget Support Emergency Amendment Act of 1996 (D.C. Act 11-429, October 29, 1996, 43 DCR 6151).

For temporary amendment of section, see § 103 of the Fiscal Year 1997 Budget Support Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-2, February 19, 1997, 44 DCR 1590).

For temporary (90 day) amendment of section, see § 3(hh)(4)(M) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2808.

**Legislative history of Law 10-234.** — Law 10-234, the “Budget Spending Reduction Amendment Act of 1994,” was introduced in Council and assigned Bill No. 10-763, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 1, 1994, and December 6, 1994, respectively. Signed by the Mayor on December 27, 1994, it was assigned Act No. 10-377 and transmitted to both Houses of Congress for its review. D.C. Law 10-234 became effective on March 21, 1995.

**Legislative history of Law 11-198.** — Law 11-198, the “Fiscal Year 1997 Budget Support Act of 1996,” was introduced in Council and assigned Bill No. 11-741, which was referred to the Committee on the Whole. The Bill was adopted on first and second readings on June 19, 1996, and July 3, 1996, respectively. Signed by the Mayor on July 26, 1996, it was assigned Act No. 11-360 and transmitted to both Houses of Congress for its review. D.C. Law 11-198 became effective on April 9, 1997.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 47-305.02.

**Editor’s notes.** — Mayor authorized to issue rules: Section 2(b) of D.C. Law 10-361 provided that the Mayor shall establish by rule a schedule of license fees for special events held on public space to cover the costs to the District providing police, fire, and other public services that are necessary to protect public health and safety.

## **§ 47-2827. Commission merchants in food; bakeries; bottling, candy-manufacturing, and ice cream manufacturers; groceries; markets; delicatessens; restaurants; private clubs; wholesale fish dealers; dairies.**

(a) Commission merchants dealing in food or food products shall pay a license fee of \$645 per annum.

(b)(1) Owners or managers of bakeries, candy-manufacturing establishments, grocery stores, marine products or fish sold at retail, meat shops and market stands handling food or food products shall pay a license fee of \$222 biennially.

(2) If any licensee under this section shall conduct upon the same premises more than one calling listed in paragraph (1) of this subsection, no additional fee shall be required.

(3)(A) Subject to the provisions of subparagraph (B) of this paragraph, a grocery store that is a development of a qualified supermarket as defined in § 47-3801, shall be exempt from the license fee imposed by this subsection for the first 10 years beginning after the date of issuance of the final certificate of occupancy for the supermarket.

(B) The license fee exemption granted by subparagraph (A) of this paragraph shall apply only:

(i) During the time that the real property is used as a supermarket;

(ii) In the case of the development of a qualified supermarket on real property not owned by the supermarket, if the owner of the real property leases

the land or structure to the supermarket at a fair market rent reduced by the amount of the real property tax exemption provided by § 47-1002(23); and

(iii) During the time that the supermarket development is in compliance with the requirements of subchapter X of Chapter 2 of Title 2.

(c) Owners or managers of delicatessens, ice cream parlors, soda fountains, or soft drink establishments shall pay a license fee of \$133 per annum; provided, that if any licensee hereunder shall conduct upon the same premises more than 1 of the callings herein listed, or listed in subsection (b) of this section, no additional fee shall be required.

(d) Owners or managers of ice cream manufacturing establishments shall pay a license fee of \$1,050 per annum; provided, that if any licensee hereunder shall conduct upon the same premises more than 1 of the callings listed in subsections (b) and (c) of this section, no additional fee shall be required.

(e)(1) Owners or managers of restaurants or private clubs shall pay a license fee based upon seating capacity as follows:

- (A) 0-10 seats ..... \$133 per annum;
- (B) 11-50 seats ..... \$166 per annum;
- (C) 51-100 seats ..... \$199 per annum; and
- (D) 101 seats and over ..... \$232 per annum.

(2) Within the meaning of this subsection a restaurant shall be any place where food or refreshments are served to transient customers to be eaten on the premises where sold.

(3) Licenses to operate restaurants or cafeterias in the District of Columbia public schools shall be issued at no charge to the Board of Education.

(4) If any licensee hereunder shall conduct upon the same premises more than 1 of the callings listed in subsections (b) and (c) of this section, no additional fee shall be required.

(f) Wholesale dealers in fish or other marine products shall pay a license fee of \$429 per annum.

(g) Owners or managers of dairies shall pay a license fee of \$3,300 per annum.

(h) All dealers in food or food products not listed herein, or elsewhere in this chapter shall pay a license fee of \$111 per annum.

(i) Licenses for Candy Manufacturers, Commercial Merchant Food, Ice Cream Manufacturers, Marine Product suppliers, and other wholesale food establishments shall be issued under the master business license system as a Food Establishments: Wholesale endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(j) Licenses for Bakeries, Delicatessens, Food Product suppliers, Groceries, Supermarkets, and other retail food establishments shall be issued under the master business license system as a Food Establishments: Retail endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(k) The Mayor may adjust, by rule, the fees established by this section.

(July 1, 1902, 32 Stat. 626, ch. 1352, § 7, par. 27; July 1, 1932, 47 Stat. 554, ch. 366; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(r), 23 DCR 2461; Sept. 29,



1988, D.C. Law 7-173, § 6, 35 DCR 5758; Sept. 26, 1995, D.C. Law 11-52, § 302(e), 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(24), 46 DCR 3142; Oct. 4, 2000, D.C. Law 13-166, 3(d), 47 DCR 5821; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(4)(N), 50 DCR 6913; Sept. 24, 2010, D.C. Law 18-223, § 5052, 57 DCR 6242.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

Supermarket tax incentives, “supermarket” defined, see § 47-3801.

**Prior Codifications.** — 1981 Ed., § 47-2827.

1973 Ed., § 47-2327.

**Effect of amendments.** — D.C. Law 13-166, rewrote subsec. (b)(3), which previously read:

“(A) Subject to the provisions of subparagraph (B) of this paragraph a grocery store that is a supermarket development as that term is defined in § 47-3801(3) in an underserved area of the District approved pursuant to § 47-3803, shall be exempt from the license fee imposed by this subsection for the first 5 years beginning after the date of issuance of the final certificate of occupancy for the supermarket.

“(B) The license fee exemption granted by subparagraph (A) of this paragraph shall apply:

“(i) Only during the time that the real property is used as a supermarket;

“(ii) In the case of a supermarket development on real property not owned by the supermarket, only if the owner of the real property leases the land or structure to the supermarket at a rent reduced from the fair market rent by an amount equal to the amount of the real property tax exemption provided by § 47-1002(23);

“(iii) Only during the time that the supermarket development is in compliance with the requirements of § 1-1161 et seq.; and

“(iv) In the case of a supermarket development that is a new supermarket, only if at the time construction of the new supermarket commenced no other supermarket, as that term is defined in § 47-3801(2), existed within a one mile radius of the new supermarket.”

D.C. Law 15-38, in subsec. (i), substituted “Food Establishments: Wholesale endorsement to a basic business license under the basic” for “Class A Food Establishments: Wholesale endorsement to a master business license under the master”; and in subsec. (j), substituted “Food Establishments: Retail endorsement to a basic business license under the basic” for “Class A Food Establishments: Retail endorsement to a master business license under the master”.

D.C. Law 18-223 added subsec. (k).

**Emergency legislation.** — For temporary amendment of section, see § 302(e) of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217) and § 302(e) of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

For temporary amendment of D.C. Act 11-44, see § 303 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

For temporary (90 day) amendment of section, see § 3(hh)(4)(N) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

For temporary (90 day) amendment of section, see § 5052 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2808.

**Legislative history of Law 7-173.** — For legislative history of D.C. Law 7-173, see Historical and Statutory Notes following § 47-3801.

**Legislative history of Law 11-52.** — For legislative history of D.C. Law 11-52, see Historical and Statutory Notes following § 47-2809.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 13-166.** — Law 13-166, the “Supermarket Tax Exemption Act of 2000,” was introduced in Council and assigned Bill No. 13-88, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 3, 2000, and June 6, 2000, respectively. Signed by the Mayor on June 26, 2000, it was assigned Act No. 13-365 and transmitted to both Houses of Congress for its review. D.C. Law 13-166 became effective on October 4, 2000.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

**Legislative history of Law 18-223.** — For Law 18-223, see notes following § 47-355.05.

**Short title.** — Short title: Section 5051 of D.C. Law 18-223 provided that subtitle F of

title V of the act may be cited as the "Department of Health Fee Modifications Amendment Act of 2010".

**Delegation of Authority.** — Delegation of authority pursuant to an Act Making Appropriations to provide for the expenses of the gov-

ernment of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes, see Mayor's Order 98-139, August 20, 1998 (45 DCR 6591).

# CASE NOTES

## Civil rights.

The 1873 District of Columbia anti-discrimination regulatory law prescribing in terms of civil rights the duties of restaurateurs to members of public has not been modified, altered or repealed by non-use and administrative practice and by exercise for 75 years of

licensing authority over restaurants without regard to equal service requirements. Laws D.C.1871-1873, p. 65, §§ 1-3, p. 116, §§ 1-4; Act June 11, 1878, 20 Stat. 102; D.C. Code 1951, §§ 47-2301, 47-2327, 47-2345. *District of Columbia v. John R. Thompson Co.*, 73 S.Ct. 1007, 1953 U.S. LEXIS 2001 (U.S. Dist. Col. 1953).

## § 47-2828. Classification of buildings containing living quarters for licenses; fees; buildings exempt from license requirement.

(a) The Council of the District of Columbia is authorized and empowered to classify, according to use, method of operation, and size, buildings containing living or lodging quarters of every description, to require licenses for the business operated in each such building as in its judgment requires inspection, supervision or regulation by any municipal agency or agencies, and the Mayor of the District of Columbia is authorized and empowered to fix a schedule of license fees therefor in such amount as, in his judgment, will be commensurate with the cost to the District of Columbia of such inspection, supervision or regulation: owners of residential buildings in which one or more dwelling units or rooming units are offered for rent or lease shall obtain from the Mayor a license to operate such business.

(b) Licenses for hotels, inns and motels, boarding houses and rooming houses, bed and breakfasts, and other transient Housing businesses shall be issued under the basic business license system as a Housing: Transient endorsement on a basic business license.

(c) Licenses for apartment houses, all community based residential facilities, and other residential Housing businesses shall be issued under the basic business license system as a Housing: Residential endorsement on a basic business license.

(d) Licenses for businesses engaged in home improvement services issued under this section shall be issued as a General Services and Repair endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(July 1, 1902, 32 Stat. 626, ch. 1352, § 7, par. 28; July 1, 1932, 47 Stat. 555, ch. 366; July 22, 1947, 61 Stat. 402, ch. 296, § 3; July 25, 1995, D.C. Law 11-30, § 10, 42 DCR 1547; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(25), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 2(b), 50 DCR 6913.)



**Cross references.** — Human rights, “housing business” defined, see § 2-1401.02.

Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-32

**Prior Codifications.** — 1981 Ed., § 47-2828.

1973 Ed., § 47-2328.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (b), substituted “bed and breakfasts, and other transient Housing businesses shall be issued under the basic business license system as a Housing: Transient endorsement on a basic business license” for “and other transient Class A Housing businesses shall be issued under the master business license system as a Class A Housing: Transient endorsement on a master license”; in subsec. (c), substituted “all community based residential facilities, and other residential Housing businesses shall be issued under the basic business license system as a Housing: Residential endorsement on a basic business license” for “cooperative associations, and other residential Class A Housing businesses shall be issued under the master business license system as a Class A Housing: Residential endorsement on a master license”;

and, in subsec. (d), substituted “General Services and Repair endorsement to a basic business license under the basic business license system” for “Class B General Services and Repair endorsement to a master business license under the master business license system”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(b) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 11-30.** — Law 11-30, the “Technical Amendments Act of 1995,” was introduced in Council and assigned Bill No. 11-58, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on February 7, 1995, and March 7, 1995, respectively. Signed by the Mayor on March 22, 1995, it was assigned Act No. 11-32 and transmitted to both Houses of Congress for its review. D.C. Law 11-30 became effective on July 25, 1995.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

## CASE NOTES

### ANALYSIS

Administrative review.

Building permits.

Housing code.

Inspections.

Judicial review.

Landlord and tenant.

—Failure to register or license property, landlord and tenant.

—In general.

—Remedies of landlords and tenants.

License renewal.

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### Administrative review.

Whether property owner’s home was a single dwelling unit such that property owner was required to obtain a housing business license to rent rooms to college students was to be resolved by Board of Appeals and Review (BAR) on remand from Court of Appeals, rather than by Court of Appeals itself, where Court of Appeals found BAR’s basis for requiring license was incorrect, and BAR did not initially consider argument that home was a single dwelling unit. *Walsh v. D.C. Bd. of Appeals & Review*, 826 A.2d 375, 2003 D.C. App. LEXIS 414 (2003).

The mere filing of an appeal before the Board of Appeals and Review pursuant to the denial of

petitioner’s application for renewal of his license to operate an apartment house by the business licenses and permits division of the Department of Economic Development did not stay the effect of the denial of the renewal application. D.C. Code §§ 47-2328, 47-2345; Reorganization Order No. 112, Pt. 1, subd. C, par. *Holmes v. District of Columbia Board of Appeals & Review*, 351 A.2d 518, 1976 D.C. App. LEXIS 466 (1976).

The Board of Appeals and Review has the power to order a stay pending final judgment and should stay an order denying an application for renewal of a license to operate an apartment house if requested to do so by a petitioner so that a due process hearing may take place. D.C. Code §§ 47-2328, 47-2345; Reorganization Order No. 112, Pt. 1, subd. C, par. *Holmes v. District of Columbia Board of Appeals & Review*, 351 A.2d 518, 1976 D.C. App. LEXIS 466 (1976).

### Building permits.

Where plaintiff’s application for building permit showed that he wished to operate a hotel but two weeks before plaintiff got his permit Commissioners of District of Columbia had given public notice of a hearing with regard to proposed new licensing regulations, and a month after he got permit and several months before he completed his alterations, new licensing regulations were adopted providing that a

building must have at least 30 bedrooms to be licensed as a hotel, and it did not appear that plaintiff was prevented from continuing to use his 18 bedroom property as before, there was no basis for estoppel against refusal to grant license to operate a hotel. D.C. Code 1940, §§ 25-103(j), 47-2328. *Courembis v. District of Columbia*, 193 F.2d 18, 1951 U.S. App. LEXIS 2852 (C.A.D.C. 1951).

### Housing code.

Housing code was incorporated by reference into licensing provisions chapter of housing regulations, and thus the right of entry and inspection provisions under licensing chapter authorized inspections of individual dwelling units for compliance with provisions of housing code. D.C.C.E § 47-2328. *Holmes v. District of Columbia Board of Appeals & Review*, 421 A.2d 27, 1980 D.C. App. LEXIS 380 (1980), writ of certiorari denied by 450 U.S. 921, 101 S. Ct. 1369, 67 L. Ed. 2d 348, 1981 U.S. LEXIS 872, 49 U.S.L.W. 3618 (1981).

Housing code, as applied in case in which application for renewal of license to operate apartment house was denied by the business licenses and permits division of the Department of Economic Development, was not void for vagueness where petitioner did not dispute the building inspector's findings as to the existence of housing code violations or contend that they were the result of his failure to understand regulations. D.C. Code §§ 1-226, 1-228, 47-2328, 47-2345. *Holmes v. District of Columbia Board of Appeals & Review*, 351 A.2d 518, 1976 D.C. App. LEXIS 466 (1976).

The housing code does not, on its face, constitute an unconstitutional exercise of police power. D.C. Code §§ 47-2328, 47-2345. *Holmes v. District of Columbia Board of Appeals & Review*, 351 A.2d 518, 1976 D.C. App. LEXIS 466 (1976).

The Department of Economic Development may, following appropriate procedures, withhold a license to operate an apartment house on the basis of the existence of substantial housing code violations affecting the public health and safety. D.C. Code §§ 47-2328, 47-2345. *Holmes v. District of Columbia Board of Appeals & Review*, 351 A.2d 518, 1976 D.C. App. LEXIS 466 (1976).

### Inspections.

In applying for housing business licenses, owner of apartment buildings effectively consented to an inspection of his entire premises for compliance with all applicable provisions of housing regulations, including both licensing regulations and housing code. D.C. Code §§ 47-2302, 47-2328. *Holmes v. District of Columbia Board of Appeals & Review*, 421 A.2d 27, 1980 D.C. App. LEXIS 380 (1980), writ of certiorari denied by 450 U.S. 921, 101 S. Ct. 1369, 67 L.

Ed. 2d 348, 1981 U.S. LEXIS 872, 49 U.S.L.W. 3618 (1981).

Owner of multiple dwelling structure by applying for license to operate building as apartment house consented to inspection of premises and entry into building without warrant did not violate Fourth Amendment right. U.S. Const. Amend. 4; D.C. Code §§ 1-1510, 47-2302, 47-2328. *John D. Neumann Properties, Inc. v. District of Columbia, Board of Appeals & Review*, 268 A.2d 605, 1970 D.C. App. LEXIS 327 (App. 1970).

### Judicial review.

Issues not urged at administrative level could not form basis for overturning on review decision denying license to operate multiple dwelling structure as apartment house. D.C. Code §§ 1-1510, 47-2302, 47-2328. *John D. Neumann Properties, Inc. v. District of Columbia, Board of Appeals & Review*, 268 A.2d 605, 1970 D.C. App. LEXIS 327 (App. 1970).

### Landlord and tenant.

#### — Failure to register or license property, landlord and tenant.

Landowner's failure to register his building, which was prerequisite to implementing rent increases, was not excused, despite landlord's contention that his failure to comply with registration requirement arose out of governmental negligence which prevented him from securing certificate of occupancy, which was needed to register. D.C. Code 1981, §§ 45-1516(d)(1, 2), 45-1519(a)(1)(B) (repealed). *Temple v. District of Columbia Rental Housing Com.*, 536 A.2d 1024, 1987 D.C. App. LEXIS 520 (1987).

Landlord did not "constructively register" his building, which was prerequisite to implementing rent increases, by virtue of temporary registration number he was granted until he attained necessary final certificate of occupancy and housing business license. D.C. Code 1981, §§ 45-1516(d)(1, 2), 45-1519(a)(1)(B) (repealed). *Temple v. District of Columbia Rental Housing Com.*, 536 A.2d 1024, 1987 D.C. App. LEXIS 520 (1987).

Whether "base rent" for unit in building which was not timely registered, which was prerequisite to implementing rent increases, was rent charged in year later than year specified in Rental Housing Act, because landlord's occupancy of one of five units entitled him to a period of exemption under the small landlord exemption, was issue to be resolved in first instance by Rental Housing Commission. D.C. Code 1981, §§ 45-1503(2), 45-1516(a)(3), 45-1519(a)(1)(B) (repealed). *Temple v. District of Columbia Rental Housing Com.*, 536 A.2d 1024, 1987 D.C. App. LEXIS 520 (1987).

Rental Housing Commission's award of trebled rent overcharges, due to landlord's failure to timely register his housing accommodation,



was justified, despite landlord's contention that nonregistration constituted "technical" violation, that tenants had full use of property, that he attempted to comply with registration requirements, and that government error caused his nonregistration. D.C. Code 1981, § 45-1591(a) (repealed). *Temple v. District of Columbia Rental Housing Com.*, 536 A.2d 1024, 1987 D.C. App. LEXIS 520 (1987).

A landlord's violation of law in failing to procure required licenses is not to be treated any differently than a violation of law in failing to meet the minimum standards of habitability; in neither case does a violation arising after the lease term has commenced void the contract, and in neither case does the failure to comply with statutory requirements deprive the landlord of his right to sue for possession for nonpayment of rent. D.C. Code §§ 5-422, 47-2301, 47-2328. *Curry v. Dunbar House, Inc.*, 362 A.2d 686, 1976 D.C. App. LEXIS 345 (1976).

#### — In general.

Determination that chapter of housing regulations which does not apply to "a rooming house offering accommodations for more than four roomers" was applicable to landlord was without evidentiary support, in light of evidence indicating that landlord was trying to rid himself of roomers, that landlord had only one roomer who had three guests, and that even if "guests" of roomer were roomers, landlord did not have more than four roomers. D.C. Code 1981, § 47-2828. *Novak v. District of Columbia*, 486 A.2d 709, 1985 D.C. App. LEXIS 307 (1985).

To be entitled to remain in possession and yet be relieved of full liability for rent, the tenant must prove that the landlord has transgressed a regulation which substantially and directly affects the habitability of the premises. D.C. Code §§ 5-422, 47-2301, 47-2328. *Curry v. Dunbar House, Inc.*, 362 A.2d 686, 1976 D.C. App. LEXIS 345 (1976).

Rent may not be avoided by a tenant solely because the landlord has failed to obtain certain licenses required by law. D.C. Code §§ 5-422, 47-2301, 47-2328. *Curry v. Dunbar House, Inc.*, 362 A.2d 686, 1976 D.C. App. LEXIS 345 (1976).

#### — Remedies of landlords and tenants.

Since landlord did not deliberately avoid licensure procedures in an effort to avoid inspections and possible notification of violations, and since, instead, the landlord undertook repair work after receiving notice of existing illegal conditions, under those circumstances, equitable principles required that the tenants be relieved of their legal obligations to pay rent only to the extent that they actually were harmed. D.C. Code §§ 5-422, 47-2301, 47-2328.

*Curry v. Dunbar House, Inc.*, 362 A.2d 686, 1976 D.C. App. LEXIS 345 (1976).

A landlord who operates premises in violation of the housing regulations is not thereby enjoined from maintaining an action to recover possession for nonpayment of rent; rather, the landlord's breach of the warranty of habitability, as measured by substantial violations of the housing code, can be interposed by a tenant as a defense, in whole or in part, to the landlord's claim that possession should be surrendered because rent is owed; moreover, if any violations of the regulations arise after the commencement of the lease, they do not serve to void the lease and render it unenforceable. D.C. Code §§ 5-422, 47-2301, 47-2328. *Curry v. Dunbar House, Inc.*, 362 A.2d 686, 1976 D.C. App. LEXIS 345 (1976).

Values underlying the regulatory and licensing provisions for rental housing are protected adequately when a tenant is afforded the opportunity to prove housing code violations as evidence of a breach of the landlord's warranty of habitability, thereby defeating or forestalling possessory relief. D.C. Code §§ 5-422, 47-2301, 47-2328. *Curry v. Dunbar House, Inc.*, 362 A.2d 686, 1976 D.C. App. LEXIS 345 (1976).

#### License renewal.

Where housing code violations had a substantially detrimental effect on the health and safety of the tenants of petitioner's apartment building, denial of petitioner's license renewal application was justified, particularly in light of the cumulative effect of the numerous violations. D.C. Code §§ 47-2328, 47-2345. *Holmes v. District of Columbia Board of Appeals & Review*, 351 A.2d 518, 1976 D.C. App. LEXIS 466 (1976).

Where petitioner, whose application for renewal of his license to operate an apartment house was denied by the business licenses and permits division of the Department of Economic Development, had been conducting a going business under license, property rights had attached and the Fifth Amendment to the Constitution entitled him to a due process hearing in regard to nonrenewal of his license, even though the licensing regulation itself does not make a hearing a prerequisite to nonrenewal. D.C. Code §§ 47-2328, 47-2345. *Holmes v. District of Columbia Board of Appeals & Review*, 351 A.2d 518, 1976 D.C. App. LEXIS 466 (1976).

The hearing required for consideration of application for renewal of license to operate apartment house need not always precede the taking of administrative action denying the renewal; it is sufficient if somewhere in the administrative-judicial process, due process is afforded an applicant. U.S. Const. Amend. 5; D.C. Code §§ 47-2328, 47-2345. *Holmes v. District of Columbia Board of Appeals & Review*,

351 A.2d 518, 1976 D.C. App. LEXIS 466 (1976).

**License requirement.**

Home that contained only a single, common-area kitchen, could not be categorized as a multiple dwelling residence within the meaning of regulations pursuant to which owners who lease multi-unit dwellings must obtain license. *Walsh v. D.C. Bd. of Appeals & Review*, 826 A.2d 375, 2003 D.C. App. LEXIS 414 (2003).

**Validity of regulations.**

Requirement of District of Columbia licensing regulations that a building must have at least 30 bedrooms in order to be licensed as a hotel was not arbitrary. D.C. Code 1940, §§ 25-103(j), 47-2328. *Courembis v. District of Columbia*, 193 F.2d 18, 1951 U.S. App. LEXIS 2852 (C.A.D.C. 1951).

Requirement in District of Columbia licensing regulations that a building must have at least 30 bedrooms in order to be licensed as a hotel was within licensing authority of Commissioners of the District of Columbia. D.C. Code 1940, §§ 25-103(j), 47-2328. *Courembis v. District of Columbia*, 193 F.2d 18, 1951 U.S. App. LEXIS 2852 (C.A.D.C. 1951).

Where statute, which expressly repealed former licensing statutes, authorized District of

Columbia Commissioners to classify, according to use, method of operation, and size, buildings containing living or lodging quarters, to require license for business of operating such buildings, and to fix schedule of license fee in such amount as would be commensurate with cost of inspection, supervision, or regulation, and commissioners issued order imposing on owners or managers of hotels, apartment houses, and lodging houses, same license fees as were imposed under repealed statute, schedule of fees was invalid. D.C. Code 1951, §§ 47-2328 to 47-2330. *District of Columbia v. Greenway, Inc.*, 103 A.2d 872, 1954 D.C. App. LEXIS 242 (Cr.App. 1954).

A regulation of the commissioners of the District of Columbia defining a rooming house for licensing purposes as a building occupied for a consideration by more than four persons who are not members of owner's immediate family was valid, notwithstanding statute relating to fire escapes and safety provisions defined a rooming house as a building in which rooms are rented and sleeping quarters are provided to accommodate 10 or more persons. D.C. Code 1940, §§ 1-226, 5-312(b), 11-772(a), 45-1601 et seq., 45-1607(b), 47-2301 et seq., 47-2344, 47-2345. *Savage v. District of Columbia*, 54 A.2d 562, 1947 D.C. App. LEXIS 153 (Cr.App. 1947).

**§ 47-2829. Vehicles for hire; identification tags on vehicles; vehicles for school children; ambulances, private vehicles for funeral purposes; issuance of licenses; payment of fees.**

(a) Notwithstanding any other provision of law, the District government shall not issue or reissue a license or permit to any applicant for a license or permit if the applicant:

(1) Owes the District more than \$100 in outstanding fines, penalties, or interest assessed pursuant to the following acts or any regulations promulgated under the authority of the following acts, the:

(A) Litter Control Administrative Act of 1985, effective March 25, 1986 (D.C. Law 6-100; D.C. Official Code § 8-801 et seq.);

(B) Illegal Dumping Enforcement Act of 1994, effective May 20, 1994 (D. C. Law 10-117; D.C. Official Code § 8-901 et seq.);

(C) District of Columbia Traffic Adjudication Act of 1978, effective September 12, 1978 (D.C. Law 2-104; D.C. Official Code § 50-2301.01 et seq.);

(D) Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 et seq.);

(E) District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-301 et seq.); or

(F) The Compulsory/No-Fault Motor Vehicle Insurance Act of 1982,



effective September 18, 1982 (D.C. Law 4-155; D.C. Official Code § 31-2401 et seq.)

(2) Owes the District more than \$100 in past due taxes;

(3) Owes fines assessed to car dealers pursuant to section 2(i) of the District of Columbia Revenue Act of 1937, approved August 17, 1937 (50 Stat. 680; D.C. Official Code § 50-1501.02(i));

(4) Owes parking fines or penalties assessed by another jurisdiction; provided, that a reciprocity agreement is in effect between the jurisdiction and the District; or

(5) Owes past due District of Columbia Water and Sewer Authority service charges or fees.

(b) Any person, partnership, association, trust, or corporation operating or proposing to operate any vehicle or vehicles not confined to rails or tracks for the transportation of passengers for hire over all or any portion of any defined route or routes in the District of Columbia, shall, on or before the first day of October in each year, or before commencing such operation, submit to the Mayor, in triplicate, an application for license, stating therein the name of such person, partnership, association, trust, or corporation, the number and kind of each type of vehicle to be used in such operation, the schedule or schedules and the total number of vehicle miles to be operated with such vehicles within the District of Columbia during the 12-month period beginning with the first day of November in the same year; provided, that the provisions of this subsection shall not apply to companies operating both street railroad and bus services in the District of Columbia which pay taxes to the District of Columbia on their gross receipts; provided, that the provisions of this subsection shall not apply to the Washington Metropolitan Area Transit Authority. The Mayor shall thereupon verify and approve, or return to the applicant for correction and resubmission, each such statement. Upon receipt of the approved copy, and prior to the first day of November in the same year, or before commencing such operation, each such applicant shall pay to the Collector of Taxes, in lieu of any other personal or license tax, in connection with such operation, the sum of \$.01 for each vehicle mile proposed to be operated in the District of Columbia in accordance with the application as approved. Upon presentation of the receipt for such payment, the Mayor of the District of Columbia or his designated agent shall issue a license authorizing the applicant to carry on the operations embodied in the approved application. No increase of operations shall be commenced or continued unless and until an application similar to the original and covering such increase in operation shall have been approved and forwarded in the same manner and the corresponding additional payment made and license issued. No license shall be issued under the terms of this subsection without the approval of the Mayor.

(c) Repealed.

(d) Owners of taxicabs shall pay an annual license tax of \$25 or an amount set by the District of Columbia Taxicab Commission, but in no event to exceed \$100, for each taxicab which is to be operated in the District. The District of Columbia Taxicab Commission is authorized to make all reasonable and usual regulations for the control of taxicabs, and the Mayor shall make and enforce

all reasonable and usual regulations he or she may consider necessary for vehicles licensed under the preceding subsections and § 47-2831.

(e)(1) No person shall engage in driving or operating any vehicle licensed under the terms of subsection (c) of this section without having procured from the Mayor of the District of Columbia a license which shall not be issued except upon evidence satisfactory to the Mayor of the District of Columbia that the applicant is a person of good moral character and is qualified to operate the vehicle, and upon payment of an annual license fee of \$75 or an amount set by the Mayor, but in no event to exceed \$200. The license shall be displayed within the vehicle at all times while the licensee is engaged in driving any vehicle licensed under the terms of subsection (c) of this section. Application for the license shall be made in the form as shall be prescribed by the Mayor of the District of Columbia. No license issued under the provisions of this subsection shall be assigned or transferred. All operators of taxicabs shall first procure from the District of Columbia Taxicab Commission a license to operate a taxicab, which license shall be personal and nontransferable, upon payment of an annual license fee of \$75 or in an amount set by the District of Columbia Taxicab Commission, but in no event to exceed \$200. The Commission may issue a license of less than 1 year to operate a taxicab.

(2) Upon March 15, 1985, the following additional licensing requirements shall apply to all persons who apply for a license to operate any vehicle licensed under the terms of subsection (d) of this section:

(A) Completion of the hacker's license training course consisting of not less than 24 hours administered exclusively by the University of the District of Columbia ("University") for a fee of not less than \$100 for each person. Upon completion of the course the University shall issue a certificate of completion which shall include the date of completion and shall be presented to the Office of Taxicabs with the application for a license. Prior to issuing the certificate the University shall require each person to pass a test consisting of the subject matters taught in the course and an evaluation of the person's English communication skills. The chairperson of the District of Columbia Taxicab Commission, with the approval by majority vote of the full Commission, shall designate appropriate representatives of the Office of Taxicabs, the District of Columbia Taxicab Commission, and representatives of the taxicab industry to advise the University on problems and issues facing the taxicab industry and to assist in developing and implementing the course, and the Mayor shall designate appropriate representatives of the Metropolitan Police Department to participate on the advisory board. At a minimum, this course shall be designed to develop the applicant's knowledge of the following:

(i) The geography of the District of Columbia, with particular emphasis on major streets and avenues throughout the District of Columbia, significant government buildings and tourist sites, and the boundaries of the zone map;

(ii) District of Columbia laws and regulations governing the taxicab industry and the penalties for violating these laws and regulations;

(iii) District of Columbia traffic laws and regulations, including, but not limited to, the rights and duties of motorists, pedestrians, and bicyclists and the penalties for violating these laws and regulations;



(iv) Public relations skills including appropriate social customs and courtesies which should be extended to the public; and

(v) Small business practices including methods of accounting and manifest maintenance, fare computations for intra-District of Columbia trips and interstate trips, and general management principles.

(B) Completion of an examination which shall consist of a minimum of 60 questions, the passing grade of which shall be 70% answered correctly, which shall test:

(i) The applicant's fitness for licensure based upon knowledge of the location of addresses, significant government buildings, and tourist sites, and an understanding of the Capital City Plan;

(ii) The applicant's fitness for licensure based upon the areas covered in the hacker's license training course, exclusive of geography;

(iii) The applicant's knowledge of the District, through a minimum of 5 written questions, which shall require the applicant to state the route to arrive at a destination from a particular location; and

(iv) Selected areas, through a minimum of 5 oral questions, covered in the hacker's license training course, exclusive of geography, and the applicant's ability to communicate in English.

(C) Each applicant may repeat the examination 3 times, if necessary. However upon the third failure, the applicant must repeat the hacker's license training course and present a new certificate of completion before repeating the examination. The Office of Taxicabs under the direction of District of Columbia Taxicab Commission shall construct a pool of no less than 300 questions from which the 60 questions shall be drawn for each examination which is administered. This pool shall be kept from public dissemination and shall be substantially revised at a minimum of every 2 years to protect the integrity of the examination.

(e-1) The District of Columbia Taxicab Commission, through its Panel on Adjudication, shall develop a comprehensive point system to evaluate the record of a person licensed under the terms of subsection (e) of this section, and owners of taxicabs licensed under the terms of this paragraph. The point system or revisions of it shall be approved by resolution of the council. Each violation of every rule or regulation pertaining to the ownership and operation of taxicabs, including violations of general traffic laws and regulations while operating a taxicab, shall be given a point value effective for 3 years. The record maintained by the Office of Taxicabs for each licensee shall be assigned the point value for the violation upon the final determination of liability by the District of Columbia Taxicab Commission's Panel on Adjudication, the Bureau of Traffic Adjudication, or any other governmental body charged with making a final determination of liability. The comprehensive point system shall include the maximum point total to determine when the Office of Taxicabs shall propose to suspend or revoke the license. If the license of a person licensed pursuant to subsection (e) of this section is revoked pursuant to this subsection or other law or regulation, the person must complete the requirements contained in subsection (e)(2)(A) and (B) of this section before the person may receive a new license. If the license of a person licensed pursuant to subsection

(e) of this section is suspended pursuant to this subsection or other law or regulation, the licensee must complete the requirements contained in subsection (e)(2)(A) of this section and present to the Mayor of the District of Columbia the certificate of completion for the hacker's training course before the period of suspension is terminated.

(e-2) After March 25, 1987, the Office of Taxicabs under the direction of the District of Columbia Taxicab Commission, and prior to March 25, 1987, the Department of Public Works shall make the following information available for public inspection: The name of each person licensed under the terms of subsections (c) and (d) of this section; the licensee's annual license number; the name of the association, corporation, or organization that maintains the lease or membership agreement with the licensee; any monetary fine, suspension, or revocation action taken against the licensee; and any points assessed against the licensee in accordance with subsection (e-1) of this section; where applicable, a certificate of completion by the licensee of the training course established pursuant to subsection (e-1) of this section; a record of any criminal conviction of the licensee within the last 3 years; and, any points assessed against the licensee's District of Columbia operators permit. The records shall be cross-referenced to the association, corporation, or organization.

(e-3) The District of Columbia Taxicab Commission's Panel on Rates and Rules may issue rules to implement the provisions of subsections (e) through (e-2) of this section pursuant to subchapter I of Chapter 5 of Title 2.

(e-4) After March 25, 1987, the Office of Taxicabs under the direction of the District of Columbia Taxicab Commission, and prior to March 25, 1987, the Department of Public Works shall, by registered mail and within 5 business days of a final decision of suspension, revocation, or non-renewal of a taxicab operator license, notify the association, corporation, organization, or person that maintains a taxicab lease or taxicab association or company membership agreement with the operator that the operator's privilege to operate a taxicab in the District of Columbia has been suspended, revoked, or not renewed. The association, corporation, organization, or person that maintains a lease with the operator shall upon receipt of the notice terminate any lease agreement, written or otherwise, with the operator, and shall take reasonable steps to assure the return to the owner of any vehicle leased to the operator. The District of Columbia Taxicab Commission shall promulgate regulations to carry out the purposes of this subsection, which shall come before the Council of the District of Columbia ("Council") for a 45-day period of review, excluding Saturdays, Sundays, holidays, and days of Council recess. If the Council does not approve or disapprove the proposed regulations, in whole or in part, by resolution within this 45-day review period, the proposed regulations shall be deemed approved.

(f) All vehicles licensed under this section shall bear such identification tags as the Council of the District of Columbia may from time to time direct; and nothing herein contained shall exempt such vehicles from compliance with the traffic and motor vehicle regulations of the District of Columbia.

(g) Nothing in this subsection shall be construed to require the procuring of a license, or the payment of a tax, with respect to a vehicle owned or operated



by a state or local government or a subdivision or instrumentality thereof which is being used to transport school children, their teachers, or escorts to the District of Columbia from the state in which their school is located.

(h) Except as otherwise provided in subsections (c) and (d) of this section, owners of motor vehicles for hire used for any purpose, including, but not limited to, owners of ambulances for hire, and owners of passenger vehicles which, when used for hire, are used exclusively for funeral purposes, and, owners of passenger vehicles used exclusively for contract livery services for which the rate is fixed solely by the hour, and owners of passenger vehicles for hire used for sightseeing purposes shall pay a license tax of \$25 or an amount set by the Mayor, but not to exceed \$100, for each vehicle having a seating capacity of 12 or less passengers exclusive of the driver used in the conduct of their business. License endorsements requested by this subsection, excluding that of ambulances, shall be issued by the Department of Public Works. Licenses requested by this subchapter for ambulances shall be issued by the Department of Health as an Inspected Sales and Services endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(i) No person shall engage in driving or operating any vehicle licensed under the terms of subsection (h) of this section without having procured from the Mayor of the District of Columbia or his designated agent a license which shall only be issued upon evidence satisfactory to the Mayor of the District of Columbia, that the applicant is a person of good moral character and is qualified to operate such vehicle, and upon payment of an annual license fee of \$75 or an amount set by the Mayor, but in no event to exceed \$200. Such license shall be carried upon the person of the licensee or in the vehicle while engaged in driving such vehicle when such vehicle is being used for hire. Application for such license shall be made in such form as shall be prescribed by the Mayor of the District of Columbia. Each annual license issued under the provisions of this paragraph shall be numbered, and there shall be kept in the Office of Taxicabs a record containing the name of each person so licensed, his annual license number and all matters affecting his qualifications to be licensed hereunder. No license issued under the provisions of this subsection shall be assigned or transferred.

(July 1, 1902, 32 Stat. 626, ch. 1352, § 7, par. 31; July 1, 1932, 47 Stat. 555, ch. 366; Apr. 5, 1939, 53 Stat. 570, ch. 41; July 17, 1939, 53 Stat. 1046, ch. 313, § 3; Jan. 15, 1942, 56 Stat. 3, ch. 2; June 20, 1942, 56 Stat. 375, ch. 428; July 30, 1951, 65 Stat. 126, ch. 247, §§ 1, 2; May 18, 1954, 68 Stat. 119, ch. 218, title XIV, § 1402; July 19, 1954, 68 Stat. 493, ch. 544, § 1; Aug. 30, 1964, 78 Stat. 634, Pub. L. 88-503, § 21; Mar. 5, 1981, D.C. Law 3-139, § 2, 27 DCR 4555; Mar. 15, 1985, D.C. Law 5-178, § 2(a), (b), 32 DCR 757; Mar. 25, 1986, D.C. Law 6-97, § 21(a), 33 DCR 703; Feb. 24, 1987, D.C. Law 6-165, § 2, 33 DCR 6705; Feb. 24, 1987, D.C. Law 6-192, §§ 7, 27, 33 DCR 7836; Aug. 17, 1994, D.C. Law 10-149, § 2, 41 DCR 4485; Sept. 22, 1994, D.C. Law 10-171, § 3, 41 DCR 5149; Apr. 9, 1997, D.C. Law 11-198, § 503, 43 DCR 4569; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261,

§ 2003(pp)(26), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(4)(O), 50 DCR 6913; Nov. 16, 2006, D.C. Law 16-175, § 3, 53 DCR 6499; Mar. 14, 2007, D.C. Law 16-279, § 209(a), 54 DCR 903; Mar. 14, 2007, D.C. Law 16-294, § 7(a), 54 DCR 1086; Mar. 25, 2009, D.C. Law 17-353, §§ 124(b), 250(a), 56 DCR 1117; Mar. 3, 2010, D.C. Law 18-111, § 6051, 57 DCR 181.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

Motor fuel tax, public hackers not affected, see § 47-2313.

Motor vehicle registration, fee schedule, see § 50-1501.03.

Motor vehicles, Office of Taxicabs established, see § 50-312.

Motor vehicles, operators' permits, issuance, qualifications and restrictions, compliance with this section, see § 50-1401.01.

Public utilities, rates, investigation and reimbursement, reimbursement fees for common carriers, see § 34-912.

Smoking restrictions, places of prohibition, regulated passenger vehicles for hire, see § 7-1703.

Taxicab Commission Fund established, assessments comprising fund, see § 50-320.

Taxicab regulation, vehicle impoundment, operation without valid license, see § 50-331.

Traffic, fleet adjudication program, "fleet" defined, see § 50-2303.04a.

**Section references.** — This section is referred to in § 47-2853.04.

**Prior Codifications.** — 1981 Ed., § 47-2829.

1973 Ed., § 47-2331.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (h), substituted "an Inspected Sales and Services endorsement to a basic business license under the basic" for "a Class A Inspected Sales and Services endorsement to a master business license under the master".

D.C. Law 16-175 repealed subsec. (c).

D.C. Law 16-279, rewrote subsec. (a); repealed subsec. (c); and in subsec. (d), deleted the last sentence which had read as follows: "Annual licenses required by this subsection shall be issued by the Department of Public Works." Subsection (c), was previously repealed by Law 16-175.

D.C. Law 16-294 made a technical correction that resulted in no change in text.

D.C. Law 17-353 validated a previously made technical correction in the repeal of subsec. (c).

D.C. Law 18-111, in subsec. (e)(1), substituted "\$75" for "\$35" and "\$200" for "\$100"; and, in subsec. (i), substituted "\$75" for "\$5" and "\$200" for "\$100".

**Temporary legislation.** — "(c) There is hereby imposed for the privilege of operating vehicles for hire having a seating capacity of

more than 12 passengers in addition to the driver or operator, other than those licensed under subsection (b) of this section in the District of Columbia, a license tax of \$150 per annum or \$10 per day at the option of the operator. The license issued pursuant to this subsection shall be transferable between vehicles operated under the same ownership, management, operation, or control. No such vehicle shall be operated unless there shall be conspicuously displayed thereon a license issued under the terms of this subsection. Annual licenses required by this subsection shall be issued by the Department of Public Works."

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 503 of Fiscal Year 1997 Budget Support Temporary Amendment Act of 1996 (D.C. Law 11-226, April 9, 1997, law notification 46 DCR 2584).

**Emergency legislation.** — For temporary amendment of section, see § 503 of the Fiscal Year 1997 Budget Support Emergency Act of 1996 (D.C. Act 11-302, July 25, 1996, 43 DCR 4181), § 503 of the Fiscal Year 1997 Budget Support Emergency Amendment Act of 1996 (D.C. Act 11-429, October 29, 1996, 43 DCR 6151); and § 503 of the Fiscal Year 1997 Budget Support Congressional Adjournment Emergency Amendment Act of 1997 (D.C. Act 12-2, February 19, 1997, 44 DCR 1590).

For temporary (90 day) amendment of section, see § 3(hh)(4)(O) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

For temporary (90 day) amendment of section, see § 6051 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 6051 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 3-139.** — Law 3-139, the "District of Columbia Sightseeing Bus Registration Act of 1986," was introduced in Council and assigned Bill No. 3-301, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on July 29, 1980 and September 16, 1980, respectively. Signed by the Mayor on October 2, 1980, it was assigned Act No. 3-260 and transmitted to both Houses of Congress for its review.



**Legislative history of Law 5-178.** — Law 5-178, the “Hacker’s License Requirements Amendment Act of 1984,” was introduced in Council and assigned Bill No. 5-453, which was referred to the Committee on Transportation and Environmental Affairs. The Bill was adopted on first and second readings on December 4, 1984 and December 18, 1984, respectively. Signed by the Mayor on January 11, 1985, it was assigned Act No. 5-243 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 6-97.** — Law 6-97, the “District of Columbia Taxicab Commission Establishment Act of 1985,” was introduced in Council and assigned Bill No. 6-159, which was referred to the Committee on Public Services and Cable Television. The Bill was adopted on first and second readings on December 17, 1985, and January 14, 1986, respectively. Signed by the Mayor on January 28, 1986, it was assigned Act No. 6-125 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 6-165.** — Law 6-165, the “Hacker’s License Record Keeping Amendment Act of 1986,” was introduced in Council and assigned Bill No. 6-334, which was referred to the Committee on Public Works. The Bill was adopted on the first and second readings on July 8, 1986 and September 23, 1986, respectively. Signed by the Mayor on October 9, 1986, it was assigned Act No. 6-211 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 6-192.** — Law 6-192, the “Technical Amendments Act of 1986,” was introduced in Council and assigned Bill No. 6-544, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 5, 1986 and November 18, 1986, respectively. Signed by the Mayor on December 10, 1986, it was assigned Act No. 6-246 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 10-149.** — Law 10-149, the “Hacker’s License Requirements Amendment Act of 1984 Temporary Amendment Act of 1994,” was introduced in Council and assigned Bill No. 10-646. The Bill was adopted on first and second readings on May 3, 1994, and June 7, 1994, respectively. Signed by the Mayor on June 23, 1994, it was assigned Act No. 10-262 and transmitted to both Houses of Congress for its review. D.C. Law 10-149 became effective on August 17, 1994.

**Legislative history of Law 10-171.** — Law 10-171, the “District of Columbia Taxicab Com-

mission Establishment Act of 1985 Amendment Act of 1994,” was introduced in Council and assigned Bill No. 10-538, which was referred to the Committee on Public Services and Youth Affairs. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 25, 1994, it was assigned Act No. 10-291 and transmitted to both Houses of Congress for its review. D.C. Law 10-171 became effective on September 22, 1994.

**Legislative history of Law 11-198.** — For legislative history of D.C. Law 11-198, see Historical and Statutory Notes following § 47-2826.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

**Legislative history of Law 16-175.** — Law 16-175, the “Parking Amendment Act of 2006,” was introduced in Council and assigned Bill No. 16-536 which was referred to the Committee on Public Works and environment. The Bill was adopted on first and second readings on June 20, 2006, and July 11, 2006, respectively. Signed by the Mayor on July 21, 2006, it was assigned Act No. 16-453 and transmitted to both Houses of Congress for its review. D.C. Law 16-175 became effective on November 16, 2006.

**Legislative history of Law 16-279.** — Law 16-279, the “Department of Motor Vehicles Service and Safety Amendment Act of 2006,” was introduced in Council and assigned Bill No. 16-821, which was referred to Committee on Public Works and Environment. The Bill was adopted on first and second readings on November 14, 2006, and December 5, 2006, respectively. Signed by the Mayor on December 28, 2006, it was assigned Act No. 16-636 and transmitted to both Houses of Congress for its review. D.C. Law 16-279 became effective on March 14, 2007.

**Legislative history of Law 16-294.** — For Law 16-294, see notes following § 47-1803.02.

**Legislative history of Law 17-353.** — For Law 17-353, see notes following § 47-308.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-305.02.

**Effective date.** — Section 24(b) of D.C. Law 6-97 provided that §§ 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 20, 21, 22, and 23 shall take effect 1 year after March 25, 1986.

## CASE NOTES

## ANALYSIS

Administrative review.  
 Applicants for licensure.  
 Construction and application.  
 Construction with other laws.  
 Occasional or secondary use of vehicle.  
 Revocation or nonrenewal of license.  
 Scope of regulatory powers.  
 Taxicabs.  
 Validity.  
 Validity of regulations.  
 Vehicles for funeral purposes.

**Administrative review.**

District of Columbia Board of Commissioners had authority to delegate to Board of Revocation and Review of Hackers' Identification Cards the Commissioners' powers to grant or deny licenses to operate taxicabs and, in reviewing Board's findings, only if action of board was arbitrary or unsupported by evidence may Board's judgment be overruled. D.C. Code 1961, § 47-2331(e). *Green v. Silver*, 207 F.Supp. 133, 1962 U.S. Dist. LEXIS 3664 (D.D.C.1962).

**Applicants for licensure.**

That applicant for license to drive taxicab was unable to purchase liability insurance, had violated parking regulations, and, 11 years before, had had his operator's permit revoked for accumulation of traffic points did not constitute evidence as to moral fitness at time of application. D.C. Code 1961, § 47-2331(e). *Green v. Silver*, 207 F.Supp. 133, 1962 U.S. Dist. LEXIS 3664 (D.D.C.1962).

Board of Revocation and Review of Hackers' Identification Cards had right to consider prior arrest of applicant for public vehicle operator's license reflecting upon moral character of applicant, even though there was no trial and no conviction. D.C. Code 1961, § 47-2331(e). *Green v. Silver*, 207 F.Supp. 133, 1962 U.S. Dist. LEXIS 3664 (D.D.C.1962).

Findings of Board of Revocation and Review of Hackers' Identification Cards that two applicants for licenses to drive taxicabs were not of good moral character were supported by substantial evidence. D.C. Code 1961, § 47-2331(e). *Green v. Silver*, 207 F.Supp. 133, 1962 U.S. Dist. LEXIS 3664 (D.D.C.1962).

That applicant for license to drive taxicab had been arrested in 1943, when in his early twenties, on disorderly conduct charge which government dropped was not sufficient evidence to support finding that he was not proper person to receive public vehicle operator's license in 1961. D.C. Code 1961, § 47-2331(e). *Green v. Silver*, 207 F.Supp. 133, 1962 U.S. Dist. LEXIS 3664 (D.D.C.1962).

Evidence before Board of Revocation and Review of Hackers' Identification Cards did not warrant denial of public vehicle operator's license to one applicant. D.C. Code 1961, § 47-2331(e). *Green v. Silver*, 207 F.Supp. 133, 1962 U.S. Dist. LEXIS 3664 (D.D.C.1962).

In action by automobile passenger and passenger's wife against operator of other automobile for passenger's back injury and wife's loss of consortium as result of collision between the two automobiles, admission into evidence of "hacker's license application" which had been made by passenger less than three months after accident, and which contained physician's conclusion that there was no orthopedic abnormality, was proper, since it constituted an admission by passenger inconsistent with position he was taking on trial but consistent with his acts at time of making application for such license. D.C. Code 1951, § 47-2331(e). *Wade v. Lane*, 189 F.Supp. 661, 1960 U.S. Dist. LEXIS 3231 (D.D.C.1960).

Term "sentence" in District of Columbia motor vehicle regulation pertaining to licensing of taxicab drivers which states that an applicant shall not be considered of good moral character if he has, within the three years immediately preceding the filing of the application been convicted of, or during such period served any part of a "sentence" for certain enumerated offenses means time spent in prison confinement and does not encompass time spent on probation or parole. *Richards v. District of Columbia Hackers' License Appeal Board*, 357 A.2d 439, 1976 D.C. App. LEXIS 540 (1976).

**Construction and application.**

The reciprocity provision in the Traffic Act exempting certain foreign vehicle owners and drivers, including a Maryland corporation and its employee operating a sight-seeing bus from Baltimore to the District of Columbia by way of Annapolis and return, from the requirements of a District driver's permit and District vehicle registration has no other effect, and compliance with that act exempts no one, resident or non-resident, from the license tax imposed on owners of passenger vehicles for hire having a seating capacity of eight passengers or more in addition to the driver or operator. D.C. Code 1929, T. 6, § 245(a); D.C. Code Supp. V, T. 20, § 1731(c). *District of Columbia v. Monumental Motor Tours*, 122 F.2d 195, 1941 U.S. App. LEXIS 2935 (1941).

The statute requiring owners of passenger vehicles for hire having a seating capacity of eight passengers or more in addition to the driver or operator to pay a license tax of \$100 per annum for each vehicle used is not restricted to those who are engaged in business in the District of Columbia, but it requires, in



respect of bus transportation, the licensing of vehicles rather than uses or businesses. D.C. Code Supp. V, T. 20, § 1731(c). *District of Columbia v. Monumental Motor Tours*, 122 F.2d 195, 1941 U.S. App. LEXIS 2935 (1941).

Sick or well, one who is carried for hire through the streets in a vehicle kept and driven by another for such purposes is a "passenger" in the ordinary sense of the word, within statute requiring owners of passenger vehicles for hire to pay a license tax, and whether the hire is greater or less than the cost of the service is not material. D.C. Code Supp. I V, T. 20, § 1731(d, e). *Hazen v. Chambers*, 108 F.2d 741, 1939 U.S. App. LEXIS 2638 (1939).

Where record did not disclose that vehicles of defendant engaged in business of hiring passenger automobiles to undertakers and fraternal bodies for use at funerals were operated in interstate commerce, court could not determine that public vehicle license statute was inapplicable to defendant's vehicles on theory that statute would operate, contrary to intent of Congress, as restriction on interstate commerce. D.C. Code Supp. II, 1936, T. 20, § 1731(b, c, d, e, f). *Cave v. District of Columbia*, 90 F.2d 383, 1937 U.S. App. LEXIS 3824 (1937).

Where terms of provision of Public Vehicle License Statute were not ambiguous in and of themselves and were not inconsistent with general purpose of statute, statute could not be construed. D.C. Code Supp. II, 1936, T. 20, § 1731 (b). *Cave v. District of Columbia*, 90 F.2d 383, 1937 U.S. App. LEXIS 3824 (1937).

### Construction with other laws.

Under statutes delegating to District of Columbia Public Utilities Commission power to regulate public utilities, Congress did not confer the power to grant or withhold licenses to operate taxicabs, but such power was delegated to Commissioners of the District of Columbia. D.C. Code 1951, §§ 47-2301, 47-2331(d-f). *Associated Taxicab Operators, Inc. v. Hayes*, 240 F.2d 638, 1957 U.S. App. LEXIS 3391 (C.A.D.C. 1957).

District of Columbia's limousine licensing regulations were not preempted by Washington Metropolitan Area Transit Regulation Compact; Compact did not affect power of signatories to collect fees, licensing of vehicles and drivers was responsibility of Compact signatories, and challenged regulations neither imposed rate structure nor regulated market entry. D.C. Code 1981, § 40-1713(b). *Boston Coach-Washington Corp. v. District of Columbia Taxicab Comm'n*, 930 F. Supp. 649, 1996 U.S. Dist. LEXIS 9005 (1996).

### Occasional or secondary use of vehicle.

Undertaker who operated ambulances in his business for a noncompensatory fee was re-

quired to pay tax under statute providing that "owners of passenger vehicles for hire" whether operated from private establishment, or from a public place, should pay a license tax on each vehicle used in the conduct of their business. D.C. Code Supp. I V, T. 20, § 1731(d, e). *Hazen v. Chambers*, 108 F.2d 741, 1939 U.S. App. LEXIS 2638 (1939).

Statute relating to licensing of motorbuses held not to require bus primarily operated in regular passenger bus service, but occasionally used in sight-seeing service, to pay license tax for each use, on theory that statute contemplated licensing of each use of bus rather than one license for each bus. D.C. Code Supp. II, 1936, T. 20, §§ 1701, 1704, 1731(b, c). *Capital Transit Co. v. District of Columbia*, 87 F.2d 748, 1936 U.S. App. LEXIS 2832 (1936).

Provision of statute requiring motorbuses to pay mileage tax when operated over defined route, except when vehicles were to be operated solely for sight-seeing purposes, held not to except bus customarily operated on regular route but occasionally used in sight-seeing service, so as to require payment of license tax for such bus in addition to mileage tax. D.C. Code Supp. II, 1936, T. 20, § 1731(b, c). *Capital Transit Co. v. District of Columbia*, 87 F.2d 748, 1936 U.S. App. LEXIS 2832 (1936).

Where statute required payment of license tax for use of motorbuses except those licensed under preceding subparagraph providing for collection of mileage tax where busses operated over regular route, motorbus which was occasionally used in sight-seeing service in addition to use on regular route held not required to pay license tax in addition to mileage tax (D.C. Code Supp. II 1936, T. 20, Sec. 1731(b, c). *Capital Transit Co. v. District of Columbia*, 87 F.2d 748, 1936 U.S. App. LEXIS 2832 (1936).

### Revocation or nonrenewal of license.

Commissioners of District of Columbia could not confer absolutely upon the Board of Revocation and Review of Hackers' Identification Cards the power to revoke licenses, which power had been placed in the Commissioners by statute, where statute imposed a greater duty on Commissioners than mere administrative supervision, so that Commissioners could not void or shunt away by way of delegation the duties imposed by statute. D.C. Code 1951, §§ 47-2331, 47-2345. *Frazier v. Silver*, 185 F.Supp. 625, 1960 U.S. Dist. LEXIS 3539 (D.D.C.1960).

District of Columbia Taxicab Commission could not revoke public vehicle license, for five years, without responding to holder's claim that it lacked statutory authority to impose that severe a penalty. *Edward v. District of Columbia Taxicab Comm'n*, 645 A.2d 600, 1994 D.C. App. LEXIS 120 (1994).

Public Vehicle Branch of District of Columbia Department of Transportation and Hackers' License Appeal Board did not abuse their discretion in refusing to renew license to drive taxicab on the ground that he lacked good moral character in that he was on probation after second conviction of carrying pistol without license at time he filed his application. D.C. Code 1981, §§ 22-3204, 47-2829(e). *Yirenkyi v. District of Columbia Hackers' License Appeal Bd.*, 520 A.2d 328, 1987 D.C. App. LEXIS 283 (1987).

Fact that taxicab driver possessed guns without license with no wrongful intent did not mean that Public Vehicle Branch of District of Columbia Department of Transportation and Hackers' License Appeal Board abused their discretion in refusing to renew license to drive a taxicab on the ground that driver lacked good moral character in that he was on probation after second conviction of carrying pistol without license at time he filed his application; proof of intent to use gun for unlawful purpose was not element of crime of carrying a weapon without a license. D.C. Code 1981, §§ 22-3204, 47-2829(e). *Yirenkyi v. District of Columbia Hackers' License Appeal Bd.*, 520 A.2d 328, 1987 D.C. App. LEXIS 283 (1987).

It was not an abuse of discretion for Public Vehicle Branch of District of Columbia Department of Transportation and Hackers' License Appeal Board to refuse to renew license to drive taxicab on ground that driver lacked good moral character in that he was on probation after second conviction of carrying pistol without license at time he filed application, although driver contended that when he purchased first pistol he "overlooked" and "misinterpreted" registration papers, mistakenly believing that gun salesman had registered pistol and that when he purchased second gun, he thought he fell under "place of business" exception. D.C. Code 1981, §§ 22-3204, 47-2829(e). *Yirenkyi v. District of Columbia Hackers' License Appeal Bd.*, 520 A.2d 328, 1987 D.C. App. LEXIS 283 (1987).

Hackers' License Appeal Board may not suspend or revoke hackers' license unless it concludes after hearing and upon appropriate findings as required by Administrative Procedure Act that valid regulation promulgated by District of Columbia council under statute prescribing suspension or revocation has been violated, or unless it can show on record reliable, probative, and substantial evidence supporting its own conclusion that suspension or revocation of the particular license will be "in interest of public decency" or "necessary for protection of life, limbs, health, comfort and quiet of citizens." D.C. Code §§ 1-1501 to 1-1510, 1-1509, 1-1509(e), 47-2331(d), 47-2345(a). *Proctor v. Hackers' Board*, 268 A.2d 267, 1970 D.C. App. LEXIS 321 (App. 1970).

Only where District of Columbia council promulgates regulation explicitly making violation of public service commission taxicab regulation grounds for suspension or revocation of a hackers' license can such violation constitute basis for suspension or revocation order by Hackers' License Appeal Board. D.C. Code §§ 47-2331(d), 47-2345(a). *Proctor v. Hackers' Board*, 268 A.2d 267, 1970 D.C. App. LEXIS 321 (App. 1970).

Where there was no finding of Hackers' License Appeal Board that hacker had violated valid public service commission taxicab regulation or that suspension of hackers' license was warranted for protection of public health, comfort or in interest of public decency, nor was there probative or substantial evidence in record upon which such finding could be made, suspension of license for refusal to transport patron unless he rode in front seat of taxicab was erroneous. D.C. Code §§ 47-2331(d), 47-2345(a). *Proctor v. Hackers' Board*, 268 A.2d 267, 1970 D.C. App. LEXIS 321 (App. 1970).

#### Scope of regulatory powers.

Washington Metropolitan Area Transit Authority lacked authority to regulate operation of chartered bus tours which originated and terminated outside metropolitan area and which provided overnight hotel accommodations for tour patrons who were taken on sight-seeing tours with all passengers departing from and returning to same bus at each stop. Act of Sept. 15, 1960, art. 8, 74 Stat. 1034; Act of Oct. 9, 1962, art. 12, § 1, 76 Stat. 764; D.C. Code § 47-2331(c). *D. C. Transit System, Inc. v. Washington Metropolitan Area Transit Com.*, 420 F.2d 226, 1969 U.S. App. LEXIS 9785 (C.A.D.C. 1969).

#### Taxicabs.

Taxicab owner could not operate taxicab without having taxicab operator's license, even though such operation was for his own private use, and while displaying an off duty sign. Code 1940, § 47-2331(d, e). *Stewart v. District of Columbia*, 35 A.2d 247, 1943 D.C. App. LEXIS 253 (Cr.App. 1943).

The license which owner of a taxicab is required to obtain is for the vehicle and not for the use or business, and is personal and not transferable. Code 1940, § 47-2331(d, e). *Stewart v. District of Columbia*, 35 A.2d 247, 1943 D.C. App. LEXIS 253 (Cr.App. 1943).

A taxicab is a "common carrier" and use by it of the public streets is not a right but a privilege or license which can be granted on such conditions as the Legislature may impose for the protection of the public, and such statute must be construed with that purpose in mind. Code 1940, § 47-2331(d, e). *Stewart v. District of Columbia*, 35 A.2d 247, 1943 D.C. App. LEXIS 253 (Cr.App. 1943).

#### Validity.

The statute requiring owners of passenger



vehicles for hire having a seating capacity of eight passengers or more in addition to the driver or operator to pay a license tax of \$100 per annum for each vehicle used does not interfere with interstate operation as applied to a Maryland corporation and its employee operating a sightseeing bus from Baltimore to the District of Columbia by way of Annapolis and return, but interferes only with operation from point to point within the District, and hence can be constitutionally applied to them. D.C. Code Supp. V, T. 20, § 1731(c). *District of Columbia v. Monumental Motor Tours*, 122 F.2d 195, 1941 U.S. App. LEXIS 2935 (1941).

Public vehicle license statute requiring character licenses and badges and requiring vehicle identification tags held not unduly burdensome. D.C. Code Supp. II, 1936, Title 20, § 1731 (e, f). *Cave v. District of Columbia*, 90 F.2d 383, 1937 U.S. App. LEXIS 3824 (1937).

#### **Validity of regulations.**

Where regulation governing taxicab drivers was validly enacted, properly published in District of Columbia register and accessible to driver, it would not be declared invalid because of inadvertent omission in its compilation resulting from typographical error. D.C. Code §§ 47-2331(d), 47-2345(a). *Pillis v. District of Columbia Hackers' License Appeal Board*, 366 A.2d 1094, 1976 D.C. App. LEXIS 421 (1976), writ of certiorari denied by 430 U.S. 937, 97 S. Ct. 1566, 51 L. Ed. 2d 784, 1977 U.S. LEXIS 1243 (1977).

#### **Vehicles for funeral purposes.**

Under statute requiring that "owners of pas-

senger vehicles for hire," whether operated from a private establishment or from a public place, should pay a license tax for each vehicle used in the conduct of their business, undertaker was properly required to pay tax on funeral cars operated in its business. D.C. Code Supp. I V, T. 20, § 1731(d, e). *Hazen v. Chambers*, 108 F.2d 741, 1939 U.S. App. LEXIS 2638 (1939).

Public vehicle license statute applicable to passenger automobiles of defendant engaged in business of hiring automobiles to undertakers and fraternal bodies for use at funerals, which automobiles were kept in garage and not on hack stand, held not void as discriminatory, notwithstanding license tax for "drive-it-yourself" automobile was at different rate and notwithstanding private contract carriers of freight not operating from public space were not subjected to license tax. D.C. Code Supp. II, 1936, T. 20, §§ 1731(a-f), 1732. *Cave v. District of Columbia*, 90 F.2d 383, 1937 U.S. App. LEXIS 3824 (1937).

Public Vehicle license statute, requiring owners of "passenger vehicles for hire," whether operated from private establishment or from public space, to pay license tax, embraced passenger automobiles of defendant engaged in business of hiring automobiles to undertakers and to fraternal bodies for use at funerals. D.C. Code Supp. II, 1936, T. 20, § 1731(b, c, d, e, f). *Cave v. District of Columbia*, 90 F.2d 383, 1937 U.S. App. LEXIS 3824 (1937).

## **§ 47-2830. Rental or leasing of motor vehicle without driver.**

(a) The owners or managers of establishments where automobiles or other motor vehicles are kept for rent or lease without a driver shall pay a license fee of \$600 biennially for each such establishment; provided, that nothing in this section shall be so construed as to exempt such owners or managers from paying additional license taxes required by this chapter.

(b) Any license issued pursuant to this section shall be issued as a Motor Vehicles Sales, Services and Repair endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(July 1, 1902, 32 Stat. 626, ch. 1352, § 7, par. 32; July 1, 1932, 47 Stat. 557, ch. 366; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(s), 23 DCR 2461; Sept. 26, 1995, D.C. Law 11-52, § 302(f), 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(27), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(4)(P), 50 DCR 6913.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

Motor fuel tax, public hackers not affected, see § 47-2313.

**Prior Codifications.** — 1981 Ed., § 47-2830.

1973 Ed., § 47-2332.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (b), substituted "Motor Vehicle Sales, Service, and Repair endorsement to a basic business license under the basic" for "Class A Motor Vehicle Sales, Services and Repair endorsement to a master business license under the master".

**Emergency legislation.** — For temporary amendment of section, see § 302(f) of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217) and § 302(f) of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

For temporary amendment of D.C. Act 11-44, see § 303 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

For temporary (90 day) amendment of section, see § 3(hh)(4)(P) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2808.

**Legislative history of Law 11-52.** — For legislative history of D.C. Law 11-52, see Historical and Statutory Notes following § 47-2809.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

## § 47-2831. Vehicles hauling goods from public space.

Owners of vehicles for hire, used in hauling goods, wares, or merchandise, and operating from public space, shall pay a license tax of \$25 per annum for each vehicle. Stands for such vehicles upon public space may be established in the manner provided in § 50-2201.03. Licenses issued under this section shall date from April 1st of each year, but may be issued on or after March 15th of such year; provided, however, that all licenses issued for a period prior to April 1, 1940, shall expire on March 31, 1940, and the license fee therefor shall be prorated accordingly.

(July 1, 1902, 32 Stat. 626, ch. 1352, § 7, par. 33; July 1, 1932, 47 Stat. 557, ch. 366; Apr. 5, 1939, 53 Stat. 570, ch. 41; July 17, 1939, 53 Stat. 1046, ch. 313, § 3; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

Motor fuel tax, public hackers not affected, see § 47-2313.

**Section references.** — This section is referred to in § 47-2829.

**Prior Codifications.** — 1981 Ed., § 47-2831.

1973 Ed., § 47-2333.

## § 47-2832. Repairing of motor vehicles.

(a) Owners or managers of establishments where motor vehicles of any description are washed, cleaned, greased, oiled, or repaired, for profit or gain, shall pay a license fee of \$30 per annum.

(b) Any license issued pursuant to this section shall be issued as Motor Vehicles Sales, Services and Repair endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(July 1, 1902, 32 Stat. 627, ch. 1352, § 7, par. 34; July 1, 1932, 47 Stat. 557, ch.



366; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(t), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(28), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(4)(Q), 50 DCR 6913.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2832.

1973 Ed., § 47-2334.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (b), substituted “Motor Vehicle Sales, Service, and Repair endorsement to a basic business license under the basic” for “Class A Motor Vehicle Sales, Services and Repair endorsement to a master business license under the master”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(hh)(4)(Q) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2808.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

## § 47-2832.01. Parking establishments.

Any license or permit for a parking establishment issued under this chapter shall be issued as a General Services and Repair endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(37A), 46 DCR 3142; Apr. 12, 2000, D.C. Law 13-91, § 157(d)(3)-(4), 47 DCR 520; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(4)(R), 50 DCR 6913.)

**Prior Codifications.** — 1981 Ed., § 47-2832.1.

**Effect of amendments.** — D.C. Law 15-38 substituted “General Services and Repair endorsement to a basic business license under the basic” for “Class B General Services and Repair endorsement to a master business license under the master”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(hh)(4)(R) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see His-

torical and Statutory Notes following § 47-2801.

**Legislative history of Law 13-91.** — Law 13-91, the “Technical Amendments Act of 1999,” was introduced in Council and assigned Bill No. 13-435, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 2, 1999, and December 7, 1999, respectively. Signed by the Mayor on December 29, 1999, it was assigned Act No. 13-234 and transmitted to both Houses of Congress for its review. D.C. Law 13-91 became effective on April 12, 2000.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

## § 47-2833. Livery stables. [Repealed].

Repealed.

(July 1, 1902, 32 Stat. 627, ch. 1352, § 7, par. 35; July 1, 1932, 47 Stat. 557, ch. 366; 1973 Ed., § 47-2335; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(u), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(29), 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2833.

1973 Ed., § 47-2335.

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2808.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

## § 47-2834. Sales on streets or public places. [Repealed].

Repealed.

(July 1, 1902, 32 Stat. 627, ch. 1352, § 7, par. 36; July 1, 1932, 47 Stat. 557, ch. 366; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(aa), 23 DCR 2461; Sept. 26, 1984, D.C. Law 5-113, § 501, 31 DCR 3974; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 29, 1998, D.C. Law 12-86, § 1102, 45 DCR 1172; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(30), 46 DCR 3142; Apr. 20, 1999, D.C. Law 12-264, § 52(s), 46 DCR 2118; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(4)(S), 50 DCR 6913; Apr. 13, 2005, D.C. Law 15-354, § 73(l)(2), 52 DCR 2638; Mar. 8, 2006, D.C. Law 16-72, § 2, 53 DCR 372; Oct. 22, 2009, D.C. Law 18-71, § 12(c)(2), 56 DCR 6619.)

**Prior Codifications.** — 1981 Ed., § 47-2834.

1973 Ed., § 47-2336.

**Temporary Amendment of Section.** — Section 4 of D.C. Law 16-252 amended subsec. (c) to read as follows:

“(c) The Director of the Department of Consumer and Regulatory Affairs may, by rule, establish and revise every 2 years a site specific schedule of license fees to replace the fees listed under subsection (a) of this section to reflect the adoption of a regulatory system that assigns specific vending sites and assesses a license fee that reflects the administrative cost of licensure and periodic inspection of food and merchandise vendors.”

Section 7(b) of D.C. Law 16-252 provided that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 17-241 added subsec. (c-1) to read as follows:

“(c-1)(1) No later than July 21, 2008, the Mayor shall establish 14 additional vendor locations to be added to the 28 currently identified to increase the number of viable sites to 42 to adhere to the requirements of subsection (c) of this section.

“(2) No later than July 21, 2008, the Mayor shall hold a lottery for the 14 additional vending locations and those vendors selected shall be assigned vending locations, as specifically herein provided, for the duration of the 2008 baseball season.

“(3) The 14 sites assigned pursuant to paragraph (2) of this subsection shall be located as follows:

“(A) Two sites on First Street, S.E., between N Street, S.E., and N Place, S.E. (Eastside);

“(B) Two sites on First Street, S.E., between N Place, S.E., and O Street, S.E. (Eastside);

“(C) Seven sites on Half Street, S.E., between M Street, S.E., and N Street, S.E. (Westside); and

“(D) Three sites on N Street, S.E., between Half Street, S.E., and Van Street, S.E. (Northside).”.

Section 4(b) of D.C. Law 17-241 provided that the act shall expire after 225 days of its having taken effect.

**Temporary Addition of Section.** — Section 5 of D.C. Law 16-252 provided:

Pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), the Department of Transportation, the Department of Consumer and Regulatory Affairs, the Department of Health, and the Metropolitan Police Department may promulgate rules specific to their vending responsibilities, incorporating the best practices for the planning, cart design, management, site identification, fees and applicable taxes, and enforcement of sidewalk and roadway vendors to ensure public health and safety. The proposed rules shall be submitted to the Council for a 30-day period of review. If the Council does not approve or disapprove the proposed rules by resolution within the 30-day review period, the proposed rules shall be deemed disapproved. In no event shall there be an interpretation of this section that rulemaking shall be necessary for the issuance of licenses or permits.

Section 7(b) of D.C. Law 16-252 provided that the act shall expire after 225 days of its having taken effect.



Sections 2 to 10 of D.C. Law 17-172 added sections to read as follows:

**"Sec. 2. Definitions.**

**"For the purposes of this act, the term:**

**"(1) 'Vending location' means the specific locations on sidewalks, roadways, and other public space from which a person may vend.**

**"(2) 'Vending site permit' means a permit or other authorization to vend from a vending location.**

**"Sec. 3. Vending from public space.**

**"(a) Except as set forth in subsection (b) of this section, a person shall not vend from a sidewalk, roadway, or other public space in the District of Columbia unless the person holds:**

**"(1) A basic business license properly endorsed for sidewalk or roadway vending;**

**"(2) A vending site permit; and**

**"(3) Such other licenses, permits, and authorizations as the Mayor may require by rule.**

**"(b) The Mayor may authorize the following persons to vend from public space without a basic business license or vending site permit:**

**"(1) An employee or youth assistant of a licensed vendor;**

**"(2) A person vending at a licensed special event; and**

**"(3) A person vending from a public market holding a valid permit issued by the Mayor.**

**"Sec. 4. Vending locations and assignment.**

**"(a) The Mayor shall designate vending locations; provided, that no vending locations shall be established in Ward 2 of the District of Columbia other than those previously authorized under the District of Columbia Department of Transportation and Department of Consumer and Regulatory Affairs Vending Consolidation of Public Space and Licensing Authorities Temporary Act of 2006, effective March 8, 2007 (D.C. Law 16-252; 54 DCR 631), who are vending in a location that is in compliance with Chapter 5 of Title 24 of the District of Columbia Municipal Regulations, except as may be established through a vending development zone authorized under section 5; provided further, that no more than 350 vending locations shall be permitted in any single Ward of the District of Columbia.**

**"(b) A person shall not vend from a location other than a vending location unless the person is vending at a special event or public market holding a valid license or permit issued by the Mayor.**

**"(c) A person shall not vend from a vending location without first obtaining a vending site permit from the Mayor.**

**"(d)(1) Except as provided in paragraph (2) of this subsection, vending locations shall be assigned by lottery, unless:**

**"(A) The Mayor establishes an alternate means of assignment by rule; or**

**"(B) The vending location is located in a vending development zone, in which case the**

vending location may be assigned by lottery or such other means as may be established for the vending development zone pursuant to section 5.

**"(2) Vendors who received vending site permits for a vending location pursuant to the District of Columbia Department of Transportation and Department of Consumer and Regulatory Affairs Vending Consolidation of Public Space and Licensing Authorities Temporary Act of 2006, effective March 8, 2007 (D.C. Law 16-252; 54 DCR 631), who are vending in a location that is in compliance with Chapter 5 of Title 24 of the District of Columbia Municipal Regulations, shall have first right of preference for the issuance of a vending site permit for the same vending location.**

**"Sec. 5. Vending development zones.**

**"The Mayor may establish vending development zones, upon application and after public hearing, in which the Mayor may waive the regulatory provisions, such as the design standards, the standards for designation of vending locations, and the procedure for assigning vending locations, otherwise applicable to vendors; provided, that the Mayor shall establish, by rule, a procedure for reviewing applications for the establishment of a vending development zone.**

**"Sec. 6. Capitol Riverfront Vending Development Zone.**

**"(a) Notwithstanding section 5, but subject to subsection (f) of this section, there is established the Capitol Riverfront Vending Development Zone ('CRVDZ').**

**"(b) The boundaries of the CRVDZ shall be the same as the boundaries for the Capitol Riverfront BID, established by section 208 of the Business Improvement Districts Act of 1996, effective October 18, 2007 (D.C. Law 17-27; D.C. Official Code § 2-1215.58).**

**"(c) The Mayor shall issue no fewer than 40 vendor locations, with preference to the vendors who are legally licensed to vend at Robert F. Kennedy Memorial Stadium, within 21 days of the effective date of the Expanding Opportunities for Vending Around the Baseball Stadium Emergency Amendment Act of 2008, passed on emergency basis on April 1, 2008 (Enrolled version of Bill 17-690), and shall designate and assign vending locations within the CRVDZ.**

**"(d) Vending locations assigned within the CRVDZ shall be assigned by lottery.**

**"(e) Except as provided in this section, the Mayor may waive the regulatory provisions otherwise applicable to vendors, such as design standards, siting standards, and the types of permitted vending.**

**"(f) The CRVDZ, and any licenses or permits issued therefor, shall expire if any new development zone is hereafter established with the boundaries of the CRVDZ pursuant to section 5.**

"(g) Pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), the Mayor may issue rules to implement this section; provided, that the Mayor may also issue emergency rules to implement this section.

"Sec. 7. Public markets.

"The Mayor may require the permitting of public markets on public space and may require the licensing of managers of public markets on public space and private space.

"Sec. 8. Fees and funding.

"(a) The Mayor may establish fees, by rule, for the application for, and issuance of, each license, permit, and authorization required under this act or the rules promulgated pursuant to this act. The Mayor may differentiate the fees based on the class of license, vending location, and other relevant factors.

"(b)(1) There is established as a nonlapsing fund within the General Fund of the District of Columbia the Vending Regulation Fund ('Fund'), which shall be used solely for the purposes set forth in this section.

"(2) Deposits into the Fund shall include:

"(A) Fees paid for the application for, and issuance or renewal of, a vending permit;

"(B) Fees paid for the application for, and issuance or renewal of, the permit or other authorization issued by the Mayor setting forth the specific location on public space from which a person may vend;

"(C) Funds authorized by an act of Congress, reprogramming, or intra-District transfer to be deposited into the Fund;

"(D) Any other funds designated by law or rule to be deposited into the Fund; and

"(E) Interest on funds deposited in the Fund.

"(3) All funds deposited into the Fund shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in paragraph (4) of this subsection, subject to authorization by Congress.

"(4) Funds in the Fund may be used to pay the costs of administering this act, including costs associated with the issuance of licenses and permits described in paragraph (2)(A) and (B) of this subsection and the administration and enforcement of any rules promulgated under this act.

"Sec. 9. Penalties.

"The Mayor may establish civil penalties for the violation of this act and rules promulgated pursuant to this act, including the establishment of civil penalties pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 et seq.).

"Sec. 10. Rules.

"The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), may issue rules to implement this act, including rules regulating the design and maintenance of vendor carts, stands, vehicles, and other equipment and rules requiring that persons vending from public space maintain insurance in such form and amount as may be required by the Mayor. The proposed rules shall be submitted to the Council for a 60-day period of review, excluding weekends, holidays, and days of Council recess; provided, that rules regarding fees shall be submitted separately. If the Council does not approve or disapprove the proposed rules, by resolution, within the 60-day review period, the proposed rules shall be deemed disapproved."

Section 13(b) of D.C. Law 17-172 provided that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 17-205 added a section to read as follows:

"Sec. 5a. Capitol Riverfront Vending Development Zone.

"(a) Notwithstanding section 5, but subject to subsection (f) of this section, there is established the Capitol Riverfront Vending Development Zone ('CRVDZ').

"(b) The boundaries of the CRVDZ shall be the same as the boundaries for the Capitol Riverfront BID, established by section 208 of the Business Improvement Districts Act of 1996, effective October 18, 2007 (D.C. Law 17-27; D.C. Official Code § 2-1215.58).

"(c) The Mayor shall issue no fewer than 40 vendor locations, with preference to the vendors who are legally licensed to vend at Robert F. Kennedy Memorial Stadium, on or before the effective date of the Expanding Opportunities for Vending Around the Baseball Stadium Emergency Amendment Act of 2008, effective April 17, 2008 (D.C. Act 17-353; 55 DCR 5370, and shall designate and assign vending locations within the CRVDZ.

"(d) Vending locations assigned within the CRVDZ shall be assigned by lottery.

"(e) Except as provided in this section, the Mayor may waive the regulatory provisions otherwise applicable to vendors, such as design standards, siting standards, and the types of permitted vending.

"(f) The CRVDZ, and any licenses or permits issued therefor, shall expire if any new development zone is hereafter established with the boundaries of the CRVDZ pursuant to section 5.

"(g) Pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), the Mayor may issue rules to implement this section; provided,



that the Mayor may also issue emergency rules to implement this section."

Section 4(b) of D.C. Law 17-205 provided that the act shall expire after 225 days of its having taken effect.

Sections 2 to 9 of D.C. Law 18-4 added sections to read as follows:

"Sec. 2. Definitions.

"For the purposes of this act, the term:

"(1) 'Vending location' means the specific locations on sidewalks, roadways, and other public space from which a person may vend.

"(2) 'Vending site permit' means a permit or other authorization to vend from a vending location.

"Sec. 3. Vending from public space.

"(a) Except as set forth in subsection (b) of this section, a person shall not vend from a sidewalk, roadway, or other public space in the District of Columbia unless the person holds:

"(1) A basic business license properly endorsed for sidewalk or roadway vending;

"(2) A vending site permit; and

"(3) Such other licenses, permits, and authorizations as the Mayor may require by rule.

"(b) The Mayor may authorize the following persons to vend from public space without a basic business license or vending site permit:

"(1) An employee or youth assistant of a licensed vendor;

"(2) A person vending at a licensed special event; and

"(3) A person vending from a public market holding a valid permit issued by the Mayor.

"(c) No authorization from the Mayor is required for vending pursuant to section 105(h) of the First Amendment Assemblies Act of 2004, effective April 13, 2005 (D.C. Law 15-532; D.C. Official Code § 5-331.05(h)).

"Sec. 4. Vending locations and assignment.

"(a) The Mayor shall designate vending locations; provided, that no vending locations shall be established in Ward 2 of the District of Columbia other than those previously authorized under the District of Columbia Department of Transportation and Department of Consumer and Regulatory Affairs Vending Consolidation of Public Space and Licensing Authorities Temporary Act of 2006, effective March 8, 2007 (D.C. Law 16-252; 54 DCR 631), who are vending in a location that is in compliance with Chapter 5 of Title 24 of the District of Columbia Municipal Regulations, except as may be established through a vending development zone authorized under section 5; provided further, that no more than 350 vending locations shall be permitted in any single Ward of the District of Columbia.

"(b) A person shall not vend from a location other than a vending location unless the person is vending at a special event or public market holding a valid license or permit issued by the Mayor.

"(c) A person shall not vend from a vending location without first obtaining a vending site permit from the Mayor.

"(d)(1) Except as provided in paragraph (2) of this subsection, vending locations shall be assigned by lottery, unless:

"(A) The Mayor establishes an alternate means of assignment by rule; or

"(B) The vending location is located in a vending development zone, in which case the vending location may be assigned by lottery or such other means as may be established for the vending development zone pursuant to section 5.

"(2) Vendors who received vending site permits for a vending location pursuant to the District of Columbia Department of Transportation and Department of Consumer and Regulatory Affairs Vending Consolidation of Public Space and Licensing Authorities Temporary Act of 2006, effective March 8, 2007 (D.C. Law 16-252; 54 DCR 631), who are vending in a location that is in compliance with Chapter 5 of Title 24 of the District of Columbia Municipal Regulations, shall have first right of preference for the issuance of a vending site permit for the same vending location.

"Sec. 5. Vending development zones.

"The Mayor may establish vending development zones, upon application and after public hearing, in which the Mayor may waive the regulatory provisions, such as the design standards, the standards for designation of vending locations, and the procedure for assigning vending locations, otherwise applicable to vendors; provided, that the Mayor shall establish, by rule, a procedure for reviewing applications for the establishment of a vending development zone.

"Sec. 6. Public markets.

"The Mayor may require the permitting of public markets on public space and may require the licensing of managers of public markets on public space and private space.

"Sec. 7. Fees and funding.

"(a) The Mayor may establish fees, by rule, for the application for, and issuance of, each license, permit, and authorization required under this act or the rules promulgated pursuant to this act. The Mayor may differentiate the fees based on the class of license, vending location, and other relevant factors.

"(b)(1) There is established as a nonlapsing fund within the General Fund of the District of Columbia the Vending Regulation Fund ("Fund"), which shall be used solely for the purposes set forth in this section.

"(2) Deposits into the Fund shall include:

"(A) Fees paid for the application for, and issuance or renewal of, a vending permit;

"(B) Fees paid for the application for, and issuance or renewal of, the permit or other authorization issued by the Mayor setting forth

the specific location on public space from which a person may vend;

“(C) Funds authorized by an act of Congress, reprogramming, or intra-District transfer to be deposited into the Fund;

“(D) Any other funds designated by law or rule to be deposited into the Fund; and

“(E) Interest on funds deposited in the Fund.

“(3) All funds deposited into the Fund shall not revert to the unrestricted fund balance of the General Fund of the District of Columbia at the end of a fiscal year, or at any other time, but shall be continually available for the uses and purposes set forth in paragraph (4) of this subsection, subject to authorization by Congress.

“(4) Funds in the Fund may be used to pay the costs of administering this act, including costs associated with the issuance of licenses and permits described in paragraph (2)(A) and (B) of this subsection and the administration and enforcement of any rules promulgated under this act.

“Sec. 8. Penalties.

“The Mayor may establish civil penalties for the violation of this act and rules promulgated pursuant to this act, including the establishment of civil penalties pursuant to the Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 et seq.).

“Sec. 9. Rules.

“The Mayor, pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 et seq.), may issue rules to implement this act, including rules regulating the design and maintenance of vendor carts, stands, vehicles, and other equipment and rules requiring that persons vending from public space maintain insurance in such form and amount as may be required by the Mayor. The proposed rules shall be submitted to the Council for a 60-day period of review, excluding weekends, holidays, and days of Council recess; provided, that rules regarding fees shall be submitted separately. If the Council does not approve or disapprove the proposed rules, by resolution, within the 60-day review period, the proposed rules shall be deemed disapproved.”

Section 12(b) of D.C. Law 18-4 provided that the act shall expire after 225 days of its having taken effect.

Temporary Repeal of Section Section 11(c)(2) of D.C. Law 17-172 repealed this section.

Section 13(b) of D.C. Law 17-172 provided that the act shall expire after 225 days of its having taken effect.

Section 10(c)(2) of D.C. Law 18-4 repealed this section.

Section 12(b) of D.C. Law 18-4 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary requirement that the Mayor attempt to designate additional vending spaces to replace vending spaces that have been eliminated as a result of recent federal measures to increase the security of the White House complex and the Federal Bureau of Investigation headquarters, see § 3 of the Vending Site Lottery and Assignment Amendment Emergency Act of 1996 (D.C. Act 11-267, May 21, 1996, 43 DCR 2836).

For temporary (90 day) amendment of section, see § 3(hh)(4)(S) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

For temporary (90 day) amendment of section, see § 4 of Department of Transportation and Department of Consumer and Regulatory Affairs Vending Consolidation of Public Space and Licensing Authorities Emergency Act of 2006 (D.C. Act 16-564, December 19, 2006, 53 DCR 10264).

For temporary (90 day) enactment, see § 5 of Department of Transportation and Department of Consumer and Regulatory Affairs Vending Consolidation of Public Space and Licensing Authorities Emergency Act of 2006 (D.C. Act 16-564, December 19, 2006, 53 DCR 10264).

For temporary (90 day) additions, see §§ 2 to 9 of Vending Regulation Emergency Act of 2008 (D.C. Act 17-322, March 19, 2008, 55 DCR 3445).

For temporary (90 day) repeal of section, see § 10(c)(2) of Vending Regulation Emergency Act of 2008 (D.C. Act 17-322, March 19, 2008, 55 DCR 3445).

For temporary (90 day) additions, see § 2 of Expanding Opportunities for Street Vending Around the Baseball Stadium Emergency Amendment Act of 2008 (D.C. Act 17-353, April 17, 2008, 55 DCR 5370).

For temporary (90 day) amendment of section 6 of D.C. Law 17-172, see § 2 of Expanding Opportunities for Street Vending Around the Baseball Stadium Clarifying Emergency Amendment Act of 2008 (D.C. Act 17-427, July 16, 2008, 55 DCR 8250).

For temporary (90 day) additions, see §§ 2 to 9 of Vending Regulation Emergency Act of 2009 (D.C. Act 18-9, January 29, 2009, 56 DCR 1638).

For temporary (90 day) repeal, see § 10(c)(2) of Vending Regulation Emergency Act of 2009 (D.C. Act 18-9, January 29, 2009, 56 DCR 1638).

For temporary (90 day) additions, see §§ 2 to 9 of Vending Regulation Congressional Review Emergency Act of 2009 (D.C. Act 18-47, April 27, 2009, 56 DCR 3574).



For temporary (90 day) repeal, see § 10(c)(2) of Vending Regulation Congressional Review Emergency Act of 2009 (D.C. Act 18-47, April 27, 2009, 56 DCR 3574).

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2808.

**Legislative history of Law 5-113.** — Law 5-113, the “District of Columbia Revenue Act of 1984,” was introduced in Council and assigned Bill No. 5-370, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 26, 1984 and July 10, 1984, respectively. Signed by the Mayor on July 13, 1984, it was assigned Act No. 5-164 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 12-86.** — Law 12-86, the “Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-458, which was referred to the Committee on Public Works and the Environment and the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 19, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 21, 1998, it was assigned Act No. 12-256 and transmitted to both Houses of Congress for its review. D.C. Law 12-86 became effective on April 29, 1998.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-264.** — Law 12-264, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-804, which was referred to the

Committee of the Whole. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on January 7, 1999, it was assigned Act No. 12-626 and transmitted to both Houses of Congress for its review. D.C. Law 12-264 became effective on April 20, 1999.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

**Legislative history of Law 16-72.** — Law 16-72, the “Vending Licensing Moratorium Amendment Act of 2005,” was introduced in Council and assigned Bill No. 16-347 which was referred to the Committee on Consumers and Regulatory Affairs. The Bill was adopted on first and second readings on November 1, 2005, and December 6, 2005, respectively. Signed by the Mayor on January 4, 2006, it was assigned Act No. 16-248 and transmitted to both Houses of Congress for its review. D.C. Law 16-72 became effective on March 8, 2006.

**Legislative history of Law 18-71.** — For Law 18-71, see notes following § 47-2002.01.

**Effective date.** — Section 502 of D.C. Law 5-113 provided that § 501 shall take effect April 1, 1985.

**Delegation of Authority.** — Delegation of authority pursuant to an Act Making Appropriations to provide for the expenses of the government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and three, and for other purposes, see Mayor’s Order 98-139, August 20, 1998 (45 DCR 6591).

**Editor’s notes.** — Mayor authorized to issue rules: See second paragraph of note to § 47-2601.

## § 47-2835. Solicitors.

(a) Solicitors shall pay a license fee of \$316 biennially. Any person who goes from house to house, or place to place, within the District of Columbia, selling or taking orders for or offering to sell or take orders for goods, wares, merchandise, or any article or thing of value for future delivery, or for services to be performed in the future or for the making, manufacturing, or repairing of any article or thing whatsoever for future delivery, and requiring or accepting a deposit for such future delivery or service, shall be deemed to be a “solicitor,” within the meaning of this section; provided, however, that this definition shall not apply to persons selling goods, wares, merchandise, or any article or thing of value for resale to retailers in that commodity. Any person desiring a solicitor’s license shall make application to the Mayor of the District of Columbia or his designated agent on forms to be provided for that purpose, stating the name of the applicant, the name and address of the person whom he represents, the class and kind of goods offered for sale, or the kind of service to be performed. Such application shall be accompanied by a bond in the penal sum of \$500, running to the District of Columbia, conditioned upon the making

of final delivery of the goods ordered, or services to be performed, in accordance with the terms of such order, or failing therein, that the advance payment on such order be refunded. Any person aggrieved by the action of any such solicitor shall have the right of action on the bond for the recovery of money, or damages, or both. All orders taken by licensed solicitors shall be in writing in duplicate, stating the terms thereof and the amount paid in advance, and 1 copy shall be given to the purchaser.

(b) Any license issued pursuant to this section shall be issued as a General Services and Repair endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(July 1, 1902, 32 Stat. 627, ch. 1352, § 7, par. 37; July 1, 1932, 47 Stat. 557, ch. 366; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(v), 23 DCR 2461; Sept. 26, 1995, D.C. Law 11-52, § 302(g), 42 DCR 3684; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(31), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(4)(T), 50 DCR 6913.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-32

**Prior Codifications.** — 1981 Ed., § 47-2835.

1973 Ed., § 47-2337.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (b), substituted "General Services and Repair endorsement to a basic business license under the basic" for "Class B General Services and Repair endorsement to a master business license under the master".

**Emergency legislation.** — For temporary amendment of section, see § 302(g) of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217) and § 302(g) of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

For temporary amendment of D.C. Act 11-44,

see § 303 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

For temporary (90 day) amendment of section, see § 3(hh)(4)(T) of Streamlining Regulatory Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2808.

**Legislative history of Law 11-52.** — For legislative history of D.C. Law 11-52, see Historical and Statutory Notes following § 47-2809.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

## § 47-2836. Guides.

(a) No person shall, for hire, guide or escort any person through or about the District of Columbia, or any part thereof, unless he shall have first secured a license so to do. The fee for each such license shall be \$28 per annum. No license shall be issued hereunder without the approval of the Chief of Police. The Council of the District of Columbia is authorized and empowered to make reasonable regulations for the examination of all applicants for such licenses and for the government and conduct of persons licensed hereunder, including the power to require said persons to wear a badge while engaged in their calling.

(b) Any license issued pursuant to this section shall be issued as a General Services and Repair endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.



(July 1, 1902, 32 Stat. 627, ch. 1352, § 7, par. 38; July 1, 1932, 47 Stat. 558, ch. 366; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(w), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(32), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(4)(U), 50 DCR 6913.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2836.

1973 Ed., § 47-2338.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (b), substituted “General Services and Repair endorsement to a basic business license under the basic” for “Class B General Services and Repair endorsement to a master business license under the master”.

**Emergency legislation.** — For temporary amendment of section, see § 302(g) of the Omnibus Budget Support Emergency Act of 1995 (D.C. Act 11-44, April 28, 1995, 42 DCR 2217) and § 302(g) of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

For temporary amendment of D.C. Act 11-44, see § 303 of the Omnibus Budget Support Congressional Review Emergency Act of 1995 (D.C. Act 11-124, July 27, 1995, 42 DCR 4160).

For temporary (90 day) amendment of section, see § 3(hh)(4)(U) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2808.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404

**Editor's notes.** — Office of Major and Superintendent of Metropolitan Police abolished: The Office of the Major and Superintendent of Metropolitan Police was abolished and all functions of that office transferred to and vested in the Chief of Police. The Assistant Superintendent, Executive Officer of the Metropolitan Police Department was designated “Deputy Chief of Police, Executive Officer”; the Assistant Superintendent of the Metropolitan Police in command of the Detective Bureau was designated “Deputy Chief of Police, Chief of Detectives”; and each other Assistant Superintendent of the Metropolitan Police was designated “Deputy Chief of Police” by Reorganization Order No. 7, dated September 16, 1952. Reorganization Order No. 7 was replaced by Organization Order No. 153, dated November 10, 1966.

## CASE NOTES

### Construction with federal law.

District of Columbia regulations governing licensing of tour guides may not be applied to tour guides employed by concessionaire which provides interpretive tour services under contract with the Secretary of the Interior since tour guide services are clearly part of interpretive transportation operations that concessionaire performs for the Secretary and as such are within the sole and exclusive control of the Secretary, who may set whatever qualifications for tour guides he deems appropriate and enforce them through his contract with concessionaire. National Visitor Center Facilities Act of 1968, § 105 as amended 40 U.S.C. § 804; D.C. Code § 47-2338. *United States v. District of Columbia*, 571 F.2d 651, 1977 U.S. App. LEXIS 5448 (C.A.D.C. 1977).

National Visitor Facilities Center Act section authorizing Secretary of the Interior to provide certain kinds of transportation services between federal areas within the District of Columbia and further placing such services under

Secretary's sole and exclusive control was intended to insulate concessionaire's operations from local regulation but was not intended to shield concessionaire itself from local informational requirements, and thus Secretary's exclusive control over shuttle service precluded application of local District of Columbia laws relating to vehicle registration and inspection and tour guide licensing but did not preclude application of local laws relating to certification of foreign corporations. National Visitor Center Facilities Act of 1968, § 105 as amended 40 U.S.C. § 804; D.C. Code §§ 29-933, 40-102, 40-201, 47-2338. *United States v. District of Columbia*, 571 F.2d 651, 1977 U.S. App. LEXIS 5448 (C.A.D.C. 1977).

District of Columbia statute made no reference to speech at all, and instead required only that for-hire tour guides obtain license regardless of any message they might convey, and thus was content-neutral and subject to intermediate, rather than strict, scrutiny on tour guide company's First Amendment challenge to

statute. *Edwards v. District of Columbia*, 765 F.Supp.2d 3, 2011 U.S. Dist. LEXIS 18552 (2011).

Owners and operators of tour company engaged in more than mere commercial speech, and thus company's speech was not subject to lesser First Amendment protection applicable to commercial speech, for purposes of their challenge to District of Columbia code and regulations defining tour guide profession and specifying requirements for for-hire tour guides to obtain license; speech governed by code and regulations did not simply propose commercial transaction, but actually was transaction itself. *Edwards v. District of Columbia*, 765 F.Supp.2d 3, 2011 U.S. Dist. LEXIS 18552 (2011).

Company providing interpretive transportation services from parking lot of Robert F. Kennedy Memorial Stadium to the mall and back again is immune from enforcement against it of licensing and registration requirements of the District of Columbia and of the Washington Metropolitan Area Transit Regulation Compact if the Secretary of the Interior has properly designated the parking lot a "visitor facility" under the National Visitor Center

Facilities Act. *Washington Metropolitan Area Transit Regulation Compact*, art XII, D.C. Code following sections 1-1410, 1-1410a; National Visitor Center Facilities Act of 1968, § 105 as amended 40 U.S.C. § 804; D.C. Code §§ 29-933, 40-102, 40-201 et seq., 47-2338. *District of Columbia v. Landmark Services, Inc.*, 419 F. Supp. 91, 1976 U.S. Dist. LEXIS 13106 (1976).

Secretary of Interior had exclusive authority to regulate interpretive tour service operated under contract with Department of Interior, and service therefor was immune from enforcement of District of Columbia licensing and registration requirements. 18 U.S.C. § 1442(a)(1); Fed.Rules Civ.Proc. rule 19, 18 U.S.C.; National Visitor Center Facilities Act of 1968, §§ 101-301, 105, 105 note, 106, 201, 202(a) as amended 40 U.S.C. §§ 801-831, 804, 804 note, 805, 821, 822(a); D.C. Code §§ 8-108, 8-109, 29-933, 40-102, 40-201 et seq., 47-2338; 16 U.S.C. §§ 20-20g. *District of Columbia v. Landmark Services, Inc.*, 416 F. Supp. 559, 1976 U.S. Dist. LEXIS 14319 (1976), modified by 571 F.2d 651, 187 U.S. App. D.C. 217, 1977 U.S. App. LEXIS 5448 (1977).

## § 47-2837. Secondhand dealers; classification; licensing; stolen property.

(a) The Council of the District of Columbia is authorized and empowered to classify dealers in secondhand personal property (referred to in this section as "dealers") and the Mayor of the District of Columbia is authorized and empowered to fix and collect a license fee for each such class of dealer, which fee, in the judgment of the Mayor, will be commensurate with the cost to the District of Columbia of inspection, supervision, and regulation of such class of dealer.

(b) In classifying dealers the Council may take into consideration the kind of property dealt in, whether the property is retained by the dealer for sale at retail, whether the property is disposed of by the dealer out of the District of Columbia, whether the property is disposed of by the dealer as junk or otherwise, and such other criteria as the Council may deem appropriate.

(c) Any person engaging in the business of buying, selling, trading, exchanging, or dealing in secondhand personal property of any description, including the return of unused portion of any ticket, order, or token purporting to evidence the right of the holder or possessor thereof to be transported by any railroad or other common carrier, however operated, from one state or territory of the United States, or from the District of Columbia, to any other state or territory of the United States or to the District of Columbia, shall be regarded as a dealer, and shall obtain the appropriate license and pay the fee therefor fixed by the Mayor. For the purposes of this section, the term "secondhand personal property" shall not include any item of personal property:

(1) Which the possessor thereof has acquired as part payment or allowance on the sale by such possessor of a new or rebuilt item of personal property;



(2) Which the possessor thereof has acquired by reason of its return to him for credit, refund, or exchange by a person having purchased such item from such possessor; or

(3) Which is offered for sale, trade, or exchange by the person who repossesses the same.

(d) When any property has been stolen and sold in the District of Columbia to a dealer under such circumstances that the Mayor of the District of Columbia, after such dealer has been afforded a hearing, is satisfied that such dealer had cause to believe, or could have ascertained by reasonable inquiry or investigation that the property was stolen, and that the dealer did not make reasonable inquiry or investigation as to the title of the seller before making the purchase, the Mayor is authorized and directed to revoke the license of such dealer; and this action shall not be a bar to criminal prosecution for receiving stolen goods; provided, that nothing in this subsection shall be construed as prohibiting the Mayor from suspending or revoking the license of such dealer under the authority contained in § 47-2844.

(e) Any license issued pursuant to this section for Class A and Class C shall be issued as an Inspected Sales and Services endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter. Any other license issued pursuant to this section shall be issued as a General Sales endorsement to a basic business license.

(July 1, 1902, 32 Stat. 627, ch. 1352, § 7, par. 39; July 1, 1932, 47 Stat. 558, ch. 366; July 3, 1956, 70 Stat. 491, ch. 511, § 1; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(33), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(4)(V), 50 DCR 6913.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

Mayor, Council and other offices, police power regulations, authorization, see § 1-303.01.

**Prior Codifications.** — 1981 Ed., § 47-2837.

1973 Ed., § 47-2339.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (e), substituted “as an Inspected Sales and Services endorsement to a basic business license under the basic” for “as a Class A Inspected Sales and Services endorsement to a master business license under the master”

and “General Sales endorsement to a basic” for “Class B General Sales endorsement to a master”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(hh)(4)(V) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

## CASE NOTES

### ANALYSIS

Double jeopardy and collateral estoppel.

Examination of witnesses.

Record keeping.

Right to trial by jury.

### Double jeopardy and collateral estoppel.

The District of Columbia was collaterally estopped to relitigate in criminal prosecution

issue whether art dealer was required to obtain secondhand dealer's license where issue had been fully litigated before the Board of Appeals and Review and issue decided in favor of dealer. D.C. Code 1961, §§ 47-2339(c), 2347; Reorganization Order No. 50, D.C. Code. Tit. 1, App. II; Organization Order No. 112, D.C. Code Tit. 1, App. III. *District of Columbia v. Fisher*, 258 A.2d 456, 1969 D.C. App. LEXIS 343 (1969).

Finding that defendant was not guilty of conducting business dealing in secondhand personal property without first having obtained license to do so did not bar later information alleging that same offense had been committed after first judgment. D.C. Code 1961, § 47-2339. *District of Columbia v. King*, 201 A.2d 530, 1964 D.C. App. LEXIS 244 (App. 1964), appeal dismissed by 345 F.2d 440, 120 U.S. App. D.C. 223, 1965 U.S. App. LEXIS 5909 (1965).

#### Examination of witnesses.

In prosecution for engaging, without license, in business of dealer of unused portions of railway excursion tickets, where defense was suggested mistaken identity of accused and alibi, sustaining objections to questions whether accused had been pointed out to witness, and whether another witness had any trouble in knowing accused at trial, and whether he had seen her before date of alleged sale of tickets to which he testified held error, since answers might have established contradiction in testimony of witnesses. Act July 1, 1902, § 7, par. 39, as amended by Act July 1, 1932, 47 Stat. 558. *District of Columbia v. Clawans*, 57 S.Ct. 660, 1937 U.S. LEXIS 84 (U.S. Dist. Col. 1937).

In prosecution for engaging, without license, in business of dealer in unused portions of railway excursion tickets, where woman witness had testified that one of sales took place in presence of her husband and of two railroad police witnesses, and on cross-examination could not remember whether any one besides her husband was present, refusing to permit accused to ask husband whether railroad police witnesses were known to him or to ask one of railroad police witnesses whether he knew husband and wife before date of alleged sale held error. Act July 1, 1902, § 7, par. 39, as amended by Act July 1, 1932, 47 Stat. 558. *District of Columbia v. Clawans*, 57 S.Ct. 660, 1937 U.S. LEXIS 84 (U.S. Dist. Col. 1937).

In prosecution for engaging without license in business of dealer of unused portions of railway excursion tickets where woman witness had testified that one of sales took place in presence of her husband and of two railroad police witnesses, refusal to permit cross-examination of husband, wife, or railroad police witnesses, as to whether husband had come to Washington, by prearrangement held error. Act July 1, 1902, § 7, par. 39, as amended by Act July 1, 1932, 47 Stat. 558. *District of Columbia v. Clawans*, 57 S.Ct. 660, 1937 U.S. LEXIS 84 (U.S. Dist. Col. 1937).

In prosecution for engaging, without license, in business of dealer of unused portions of railway excursion tickets, refusing to permit accused to make inquiries as to corroborative details such as time of day when witnesses

arrived in Washington on dates of alleged sale, and place of residence of witness held error. Act July 1, 1902, § 7, par. 39, as amended by Act July 1, 1932, 47 Stat. 558. *District of Columbia v. Clawans*, 57 S.Ct. 660, 1937 U.S. LEXIS 84 (U.S. Dist. Col. 1937).

#### Record keeping.

Dealer in old and used phonograph records who held secondhand dealer's license was dealer in "secondhand personal property" and subject to requirement that records be kept. D.C. Code 1961, § 47-2339. *Draisner v. District of Columbia*, 212 A.2d 612, 1965 D.C. App. LEXIS 231 (App. 1965).

That dealers in secondhand books were exempted from certain requirements of regulation requiring keeping of records did not require that dealer in secondhand phonograph records be similarly exempted. D.C. Code 1961, § 47-2339. *Draisner v. District of Columbia*, 212 A.2d 612, 1965 D.C. App. LEXIS 231 (App. 1965).

Dealer in secondhand phonograph records could not complain that record keeping regulation imposed upon him unreasonable burden where he had made no effort whatever to comply with regulation. D.C. Code 1961, § 47-2339. *Draisner v. District of Columbia*, 212 A.2d 612, 1965 D.C. App. LEXIS 231 (App. 1965).

It would not be assumed that regulation requiring secondhand dealers to keep certain records would be construed and applied in unreasonable manner by those whose duties it was to enforce regulation. D.C. Code 1961, § 47-2339. *Draisner v. District of Columbia*, 212 A.2d 612, 1965 D.C. App. LEXIS 231 (App. 1965).

#### Right to trial by jury.

Engaging in business of selling secondhand property, such as unused portion of railway excursion tickets, without license, was not indictable at common law and is at most but an infringement of local police regulations and its moral quality is relatively inoffensive, as regards right to trial by jury. Act July 1, 1902, § 7, par. 39, as amended by Act July 1, 1932, 47 Stat. 558; D.C. Code 1929, T. 18, § 165; Const. art. 3, § 2, cl. 3; Amend. 6. *District of Columbia v. Clawans*, 57 S.Ct. 660, 1937 U.S. LEXIS 84 (U.S. Dist. Col. 1937).

In prosecution for engaging, without license, in business of dealer in secondhand personalty consisting of unused portions of railway excursion tickets, accused held not entitled to jury trial, notwithstanding statute creating offense permitted punishment by fine of not more than \$300 or imprisonment for not more than 90 days and notwithstanding accused was not entitled to appeal as of right. Act July 1, 1902, § 7, par. 39, as amended by Act July 1, 1932, 47 Stat. 558; D.C. Code 1929, T. 18, § 165; D.C.



Code 1929, T. 18, § 28; U.S. Const. art. 3, § 2, cl. 3; Amend. 6. District of Columbia v. Clawans, 57 S.Ct. 660, 1937 U.S. LEXIS 84 (U.S. Dist. Col. 1937).

## § 47-2838. Dealers in dangerous weapons.

(a) Dealers in dangerous or deadly weapons shall pay a license tax of \$300 per annum. No license shall issue hereunder without the approval of the Chief of Police, and the Council of the District of Columbia is authorized and empowered to make and promulgate regulations for the conduct of the business of persons licensed hereunder, including the power to require a record to be kept of all sales of deadly or dangerous weapons, to prescribe a form therefor, and to require reports of all such sales to the Chief of Police at such time as the Council may deem advisable.

(b) Any license issued pursuant to this section shall be issued by the Metropolitan Police Department as a Public Safety endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(July 1, 1902, 32 Stat. 628, ch. 1352, § 7, par. 40; July 1, 1932, 47 Stat. 558, ch. 366; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(x), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(34), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(4)(W), 50 DCR 6913.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2838.

1973 Ed., § 47-2340.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (b), substituted “Public Safety endorsement to a basic business license under the basic” for “Class A Public Safety endorsement to a master business license under the master”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(hh)(4)(W) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2808.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see His-

torical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

**Editor's notes.** — Office of Major and Superintendent of Metropolitan Police abolished: The Office of the Major and Superintendent of Metropolitan Police was abolished and all functions of that office transferred to and vested in the Chief of Police. The Assistant Superintendent, Executive Officer of the Metropolitan Police Department was designated “Deputy Chief of Police, Executive Officer”; the Assistant Superintendent of the Metropolitan Police in command of the Detective Bureau was designated “Deputy Chief of Police, Chief of Detectives”; and each other Assistant Superintendent of the Metropolitan Police was designated “Deputy Chief of Police” by Reorganization Order No. 7, dated September 16, 1952. Reorganization Order No. 7 was replaced by Organization Order No. 153, dated November 10, 1966.

## CASE NOTES

### In general.

Firearms Control Regulations Act of 1975 would not prohibit company from selling handguns to qualified residents, but such sales would be subject to District of Columbia Coun-

cil's authority to regulate conduct of dealers in dangerous or deadly weapons. D.C. Code §§ 6-1811(a), (a)(1), 6-1852, 47-2340. *McIntosh v. Washington*, 395 A.2d 744, 1978 D.C. App. LEXIS 365 (1978).

**§ 47-2839. Private detectives; “detective” defined; regulations.**

(a) Private detectives, or detective agencies, by whatsoever name called, shall pay a license tax of \$158 per annum; provided, that no license shall be issued under this section without the approval of the Chief of Police.

(b) For the purpose of this section, the term “detective” or “detective agency” means and includes any person, firm, or corporation engaged in the business of, or advertising, or representing himself, or itself, as being engaged in the business of detecting, discovering, or revealing crime or criminals, or securing information for evidence relating thereto, or discovering or revealing the identity, whereabouts, character, or actions of any person or persons, thing or things.

(c) It shall be unlawful for any person to engage in the business of detective, or operate, manage, or conduct a detective agency, for profit or gain, or to advertise or represent his business to be that of a detective, or that of conducting, managing, or operating a detective agency, without first obtaining a license so to do.

(d) The Council of the District of Columbia is authorized and empowered to make such reasonable regulations as it deems advisable for the government and conduct of the business of private detectives licensed hereunder, and the Mayor of the District of Columbia is authorized and empowered to revoke the license of a private detective when in his judgment such is deemed advisable in the public interest.

(e) All laws which govern the Metropolitan Police force of the District of Columbia in the matters of persons, property, or money shall be applicable to all private detectives licensed hereunder, and such detectives shall make like returns and dispositions of such matters as is required by existing law and the rules of the Mayor of the District of Columbia governing the Metropolitan Police Department.

(f) Any license issued pursuant to this section shall be issued as a Public Safety endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(July 1, 1902, 32 Stat. 628, ch. 1352, § 7, par. 41; July 1, 1932, 47 Stat. 559, ch. 366; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(y), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(35), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(4)(X), 50 DCR 6913.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

Metropolitan police, private detectives, see §§ 5-121.01 to 5-121.04.

**Prior Codifications.** — 1981 Ed., § 47-2839.

1973 Ed., § 47-2341.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (f), substituted “Public Safety en-

dorsement to a basic business license under the basic” for “Class A Public Safety endorsement to a master business license under the master”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(hh)(4)(X) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2808.



**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

**Editor's notes.** — Office of Major and Superintendent of Metropolitan Police abolished: The Office of the Major and Superintendent of Metropolitan Police was abolished and all functions of that office transferred to and vested in the Chief of Police. The Assistant Superinten-

dent, Executive Officer of the Metropolitan Police Department was designated "Deputy Chief of Police, Executive Officer"; the Assistant Superintendent of the Metropolitan Police in command of the Detective Bureau was designated "Deputy Chief of Police, Chief of Detectives"; and each other Assistant Superintendent of the Metropolitan Police was designated "Deputy Chief of Police" by Reorganization Order No. 7, dated September 16, 1952. Reorganization Order No. 7 was replaced by Organization Order No. 153, dated November 10, 1966.

## CASE NOTES

### Malicious prosecution proceedings.

As affecting private detective's right to maintain an action for malicious prosecution based on institution of administrative proceedings resulting in refusal to renew detective's license, absence of right of appeal to the courts was immaterial, and if some judicial element was essential, it would be supplied by fact that district commissioners' action in arbitrarily refusing or revoking a license would be reviewable, if in no other way, by independent action in equity. D.C. Code 1940, §§ 47-2101, 47-2341. *Melvin v. Pence*, 130 F.2d 423, 1942 U.S. App. LEXIS 3116 (1942).

Private detective sustained "special injury" sufficient to sustain action for malicious prosecution based on institution of administrative proceedings resulting in refusal to renew detective's license, where proceedings in no way involved protection of defendants' interests, detective's livelihood depended on license, license was in effect revoked, and for nearly a month detective was disabled from carrying on his work. D.C. Code 1940, § 47-2341. *Melvin v. Pence*, 130 F.2d 423, 1942 U.S. App. LEXIS 3116 (1942).

That private detective kept his office open for collection of money previously earned or that he later secured permission to operate pending

disposition of appeal did not preclude detective from maintaining malicious prosecution action based on institution of administrative proceedings resulting in refusal to renew his license, and that factor went only to reduce his damages. D.C. Code 1940, § 47-2341. *Melvin v. Pence*, 130 F.2d 423, 1942 U.S. App. LEXIS 3116 (1942).

In private detective's action for malicious prosecution based on institution of administrative proceedings resulting in refusal to renew detective's license, defendants could not successfully contend that they did not institute or instigate proceedings, where they did not deny making charge to licensing officials with intent to secure revocation of license or refusal to renew it, and defendants' complaint brought about official action and all that followed. D.C. Code 1940, § 47-2341. *Melvin v. Pence*, 130 F.2d 423, 1942 U.S. App. LEXIS 3116 (1942).

\$1,250 to private detective for malicious prosecution of administrative proceedings resulting in refusal to renew detective's license was not excessive in view of interruption of business, expense of defending against charge, including attorneys' fees, injury to business and personal reputation, and emotional disturbance involved. D.C. Code 1940, § 47-2341. *Melvin v. Pence*, 130 F.2d 423, 1942 U.S. App. LEXIS 3116 (1942).

## § 47-2839.01. Security agencies.

(a) For the purpose of this section, the term:

(1) "Campus police officer" means an individual appointed under § 5-129.02, and subject to the requirements of Chapter 12 of Title 6A of the District of Columbia Municipal Regulations [Regulations].

(2) "Security agency" means a person who conducts a business that provides security services.

(3) "Security officer" means an individual appointed under § 5-129.02, and shall have the same meaning as provided in section 2100 of Title 17 of the District of Columbia Municipal Regulations.

(4) "Security services" means any activity that is performed for compen-

sation by a security officer or special police officer to protect an individual or property.

(5) "Special police officer" means an individual appointed under § 5-129.02, and subject to the requirements of Chapter 11 of Title 6A of the District of Columbia Municipal Regulations.

(b) It shall be unlawful for any person to engage in the business of operating, managing, or conducting a security agency, for profit or gain, or to advertise or represent his or her business to be that of a security agency, or that of conducting, managing, or operating a security agency, without first obtaining a license to do so.

(c) A person who violates any provision of this section, or the provisions of Chapter 21 of Title 17 of the District of Columbia Municipal Regulations pertaining to security agencies, shall be guilty of a misdemeanor and, upon conviction, shall be subject to a fine of not more than \$1,000 or imprisonment of not more than one year, or both.

(d)(1) The Mayor, pursuant to subchapter I of Chapter 5 of Title 2, may issue rules to implement the provisions of this section.

(2) The proposed rules shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution, within this 45-day review period, the proposed rules shall be deemed approved.

(e) Any license issued pursuant to this section shall be issued as a Public Safety endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(Nov. 16, 2006, D.C. Law 16-187, § 203(b), 53 DCR 6722; Mar 25, 2009, D.C. Law 17-353, § 127(a), 56 DCR 1117.)

**Prior Codifications.** — 2001 Ed., § 47-2839a.

**Legislative history of Law 16-187.** — Law 16-187, the "Enhanced Professional Security Amendment Act of 2006", was introduced in Council and assigned Bill No. 16-102, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on June 6, 2006, and July 11, 2006, respectively. Signed by the Mayor on July 25, 2006, it

was assigned Act No. 16-465 and transmitted to both Houses of Congress for its review. D.C. Law 16-187 became effective on November 16, 2006.

**Legislative history of Law 17-353.** — For Law 17-353, see notes following § 47-308.

**Editor's notes.** — Former § 47-2839a has been recodified as § 47-2839.01 by D.C. Law 17-353, § 127(a).

## § 47-2840. Fortune-telling [Repealed].

Repealed.

(July 1, 1902, 32 Stat. 628, ch. 1352, § 7, par. 43; July 1, 1932, 47 Stat. 562, ch. 366; 1973 Ed., § 47-2342; Sept. 14, 1976, D.C. Law 1-82, title I, § 104(z), 23 DCR 2461; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(36), 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2840.  
1973 Ed., § 47-2342.

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2808.



**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2832.01.

**Editor's notes.** — Office of Major and Superintendent of Metropolitan Police abolished: The Office of the Major and Superintendent of Metropolitan Police was abolished and all functions of that office transferred to and vested in the Chief of Police. The Assistant Superintendent, Executive Officer of the Metropolitan Po-

lice Department was designated "Deputy Chief of Police, Executive Officer"; the Assistant Superintendent of the Metropolitan Police in command of the Detective Bureau was designated "Deputy Chief of Police, Chief of Detectives"; and each other Assistant Superintendent of the Metropolitan Police was designated "Deputy Chief of Police" by Reorganization Order No. 7, dated September 16, 1952. Reorganization Order No. 7 was replaced by Organization Order No. 153, dated November 10, 1966.

## § 47-2841. Exposing persons or animals as targets prohibited.

No person shall set up, operate, or conduct any business or device by or in which any person, animal, or living object shall act or be exposed as a target for any ball, projectile, missile, or thing thrown or projected for or in consideration of profit or gain, directly or indirectly.

(July 1, 1902, 32 Stat. 628, ch. 1352, § 7, par. 44; July 1, 1932, 47 Stat. 562, ch. 366; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2841.

1973 Ed., § 47-2343.

## § 47-2842. Council of the District of Columbia may regulate, modify, or eliminate license requirements.

(a) The Council of the District of Columbia is authorized and empowered, when in its discretion such is deemed advisable, to require a license of other businesses or callings not listed in this chapter or Chapter 30 [repealed] of this title and which, in its judgment, require inspection, supervision, regulation, or any other activity or expenditure by any municipal agencies; and the Council of the District of Columbia is further authorized and empowered to fix the license fee therefor in such amount as, in its judgment, will be not less than the cost to the District of Columbia of such inspection, supervision, regulation, or other activity or expenditure. The Council is further authorized and empowered in its discretion to modify any of the provisions of this chapter or Chapter 30 [repealed] of this title so far as eliminating therefrom any business or calling in this chapter or Chapter 30 [repealed] of this title required to be licensed, and the Council is further authorized and empowered in its discretion to raise or lower the amount of the license fee provided in this chapter or Chapter 30 [repealed] of this title, when in its judgment such increase or decrease is warranted.

(b) The fee for an original or renewal license for motor vehicle driving instructors shall be \$78.

(c) Repealed.

(d) The Council shall make such regulations, modifications, or eliminations

of licensing requirements consistent with the basic business license system as set forth in subchapter I-A of this chapter.

(July 1, 1902, 32 Stat. 628, ch. 1352, § 7, par. 45; July 1, 1932, 47 Stat. 562, ch. 366; Sept. 14, 1976, D.C. Law 1-82, title I, § 108, 23 DCR 2461; Apr. 3, 1982, D.C. Law 4-97, § 7, 29 DCR 765; Aug. 17, 1991, D.C. Law 9-30, § 7, 38 DCR 4215; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-255, § 3(b), 46 DCR 1279; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(37), 46 DCR 3142; June 5, 2003, D.C. Law 14-307, § 1702, 49 DCR 11664; Apr. 13, 2005, D.C. Law 15-354, § 73(1)(3), 52 DCR 2638; Oct. 20, 2005, D.C. Law 16-33, § 5003, 52 DCR 7503.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2842.

1973 Ed., § 47-2344.

**Effect of amendments.** — D.C. Law 14-307, in subsec. (b), substituted “\$78” for “\$50”. D.C. Law 15-354, in subsec. (d), substituted “basic business license system” for “master business licensing scheme”.

D.C. Law 16-33 repealed subsec. (c) which had read as follows: “(c) Notwithstanding subsection (a) of this section, no licensing fees shall be charged to any child development home as defined in § 4-401(3).”

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 114(a) of Omnibus Budget Support Temporary Act of 1991 (D.C. Law 9-19, August 17, 1991, law notification 38 DCR 5786).

**Emergency legislation.** — For temporary amendment of section, see § 3(b) of the Child Development Home Promotion Emergency Amendment Act of 1998 (D.C. Act 12-444, October 9, 1998, 45 DCR 7304), and § 3(b) of the Child Development Home Promotion Legislative Review Emergency Amendment Act of 1998 (D.C. Act 12-604, January 20, 1999, 45 DCR 1281).

For temporary (90-day) amendment of section, see § 3(b) of the Child Development Home Promotion Congressional Review Emergency Amendment Act of 1999 (D.C. Act 13-57, April 16, 1999, 46 DCR 3862).

For temporary (90 day) amendment of section, see § 1702 of Fiscal Year 2003 Budget Support Amendment Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) amendment of section, see § 1702 of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of section, see § 1702 of Fiscal Year 2003 Budget

Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

For temporary (90 day) amendment of section, see § 5003 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2808.

**Legislative history of Law 4-97.** — Law 4-97, the “Motor Vehicle Services Fees and Driver Education Support Act of 1982,” was introduced in Council and assigned Bill No. 4-337, which was referred to the Committee on Transportation and Environmental Affairs. The Bill was adopted on first and second readings on January 12, 1982, and January 26, 1982, respectively. Signed by the Mayor on February 9, 1982, it was assigned Act No. 4-155 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 9-30.** — Law 9-30, the “District of Columbia Motor Vehicle Services Fees Amendment Act of 1991,” was introduced in Council and assigned Bill No. 9-163, which was referred to the Committee on Public Works. The Bill was adopted on first and second readings on June 4, 1991, and June 18, 1991, respectively. Signed by the Mayor on July 2, 1991, it was assigned Act No. 9-57 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 12-255.** — Law 12-255, the “Child Development Home Promotion Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-820, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 29, 1998, it was assigned Act No. 12-603 and transmitted to both Houses of Congress for its review. D.C. Law 12-255 became effective on April 20, 1999.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see His-



torical and Statutory Notes following § 47-2801.

**Legislative history of Law 14-307.** — For Law 14-307, see notes following § 47-903.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

**Legislative history of Law 16-33.** — For Law 16-33, see notes following § 47-308.01.

## CASE NOTES

### ANALYSIS

Constitutional rights of applicants.

Construction of regulations.

Police powers.

Propriety of fees.

Propriety of licensure.

Purpose of licensure.

Validity.

Validity of regulations.

### Constitutional rights of applicants.

Denial of petitioner's application for reinstatement as licensed registered nurse effectively precluded her from practicing her profession just as much as did initial revocation of her license; thus, due process clause of Fifth Amendment guaranteed petitioner right to hearing on her application for reinstatement and since application also fell within definition of "contested case," that hearing was required. D.C. Code 1978 Supp. §§ 1-1502(8), 1-1509, 47-2344; U.S. Const. Amend. 5. *Woods v. District of Columbia Nurses' Examining Bd.*, 436 A.2d 369, 1981 D.C. App. LEXIS 380 (1981).

### Construction of regulations.

Under the regulations issued by the Commissioners of the District of Columbia defining a rooming house and requiring a license therefor, it was not intended that servants be counted toward the more than four persons occupying a house. *Byrd v. District of Columbia*, 43 A.2d 46, 1945 D.C. App. LEXIS 106 (Cr.App. 1945).

### Police powers.

Municipality had authority to enact regulation imposing disposal charge on commercial refuse haulers even though no such charge was imposed on governmental agencies or for residential refuse. D.C. Code §§ 1-226, 6-501, 6-504, 6-811 et seq., 47-2344. *Metropolitan D. C. Refuse Haulers Asso. v. Washington*, 360 F. Supp. 281, 1972 U.S. Dist. LEXIS 14429 (1972), affirmed by 479 F.2d 1191, 156 U.S. App. D.C. 208, 1973 U.S. App. LEXIS 10459 (1973).

The council of the District of Columbia has broad authority to regulate business and professional licenses, and to promulgate regulations implementing those licensing powers. D.C. Code 1978 Supp. § 47-2344; D.C. Code 1973, § 47-2345(a). *Woods v. District of Colum-*

**References in text.** — Chapter 30 of this title, referred to throughout subsection (a) of this section, was repealed by D.C. Law 5-136.

**Editor's notes.** — District of Columbia Drug Manufacture and Distribution Licensure Act of 1990: See D.C. Law 8-137, codified as §§ 8-131, 8-137 and 33-1001 et seq.

*bia Nurses' Examining Bd.*, 436 A.2d 369, 1981 D.C. App. LEXIS 380 (1981).

Under licensing statute authorizing Commissioners of District of Columbia, when in their discretion such is advisable, to require a license of other businesses or callings not listed specifically in Code, Commissioners have the right to make reasonable classifications. D.C. Code 1951, §§ 47-2301 et seq., 47-2344. *Abdow v. District of Columbia*, 108 A.2d 374, 1954 D.C. App. LEXIS 186 (Cr.App. 1954).

### Propriety of fees.

As the business of disposing of solid waste is not a business or calling otherwise listed in licensing statutes, the District of Columbia may fix a license fee for the disposal of such wastes in such amount as will be commensurate with the cost to the District of regulating the disposal of such wastes, but any fee would be illegal to the extent that the revenue therefrom exceeded applicable costs. D.C. Code §§ 47-2301 to 47-2350, 47-2344. *Metropolitan D. C. Refuse Haulers Asso. v. Washington*, 479 F.2d 1191, 1973 U.S. App. LEXIS 10459 (C.A.D.C. 1973).

Where licenses issued for collection and transportation of solid wastes in or through the District of Columbia did not cover disposal of solid wastes in the District, separate disposal fee of \$5 per ton was a "license fee" authorized by statute, to the extent that the revenue therefrom was commensurate with the costs of supervision and regulation. D.C. Code §§ 1-226, 6-501, 6-504, 6-811, 6-812, 47-2344. *Metropolitan D. C. Refuse Haulers Asso. v. Washington*, 479 F.2d 1191, 1973 U.S. App. LEXIS 10459 (C.A.D.C. 1973).

License required by police regulation, defining a mechanical amusement machine to mean any machine, device, or appliance, except music machine, offered for use by the public, as a game, entertainment, or amusement which may be operated or caused to operate by the insertion of a coin, and providing that owners or operators of establishments in which mechanical amusement machines are offered for public use shall obtain an annual license and pay annual license fee of \$12 for first three machines, plus \$12 for each additional three machines or fraction thereof, was one for regu-

lation and not for revenue. D.C. Code 1951, §§ 47-2301 et seq., 47-2344. *Abdow v. District of Columbia*, 108 A.2d 374, 1954 D.C. App. LEXIS 186 (Cr.App. 1954).

In prosecution of owner of a mechanical amusement horse for failure to have license required by regulation of Commissioners of District of Columbia, burden was on owner of machine to show that license fee bore no reasonable relation to cost of regulating, inspecting or supervising the mechanical horse. D.C. Code 1951, §§ 47-2301 et seq., 47-2344. *Abdow v. District of Columbia*, 108 A.2d 374, 1954 D.C. App. LEXIS 186 (Cr.App. 1954).

In absence of evidence to the contrary, it is presumed that a license fee is reasonable and proportionate to the required cost of supervision. D.C. Code 1951, §§ 47-2301 et seq., 47-2344. *Abdow v. District of Columbia*, 108 A.2d 374, 1954 D.C. App. LEXIS 186 (Cr.App. 1954).

### Propriety of licensure.

Under licensing statute authorizing Commissioners of District of Columbia, when in their discretion such is advisable, to require a license of other businesses or callings not listed specifically in Code, Commissioners have the right to make reasonable classifications. D.C. Code 1951, §§ 47-2301 et seq., 47-2344. *Abdow v. District of Columbia*, 108 A.2d 374, 1954 D.C. App. LEXIS 186 (Cr.App. 1954).

Under licensing statute authorizing Commissioners of District of Columbia, when in their discretion such is advisable, to require a license of other businesses or callings not listed specifically, Commissioners had power to require a license for mechanical amusements designed for use by public such as a mechanical amusement horse. D.C. Code 1951, §§ 47-2301 et seq., 47-2344. *Abdow v. District of Columbia*, 108 A.2d 374, 1954 D.C. App. LEXIS 186 (Cr.App. 1954).

### Purpose of licensure.

The law providing for license for sale of articles of merchandise on public streets is a regulatory measure, and its aim is not to impose a tax for general revenue purposes but to provide a fee commensurate with costs of inspection, supervision, or regulation. D.C. Code 1940, §§ 47-2305, 47-2336, 47-2344, 47-2347. *Busey v. District of Columbia*, 138 F.2d 592, 1943 U.S. App. LEXIS 2608 (1943).

Licensing statutes, while primarily designed to protect the public, should be construed and administered in such a way that capable and deserving applicants, possessing the requisite qualifications, are not denied the right to gain or to continue a livelihood in the practice of their calling. *Zhang v. D.C. Dep't of Consumer & Regulatory Affairs*, 834 A.2d 97, 2003 D.C. App. LEXIS 625 (2003).

License required by police regulation, defining a mechanical amusement machine to mean any machine, device, or appliance, except music machine, offered for use by the public, as a game, entertainment, or amusement which may be operated or caused to operate by the insertion of a coin, and providing that owners or operators of establishments in which mechanical amusement machines are offered for public use shall obtain an annual license and pay an annual license fee of \$12 for first three machines, plus \$12 for each additional three machines or fraction thereof, was on the calling and not the machine. D.C. Code 1951, §§ 47-2301 et seq., 47-2344. *Abdow v. District of Columbia*, 108 A.2d 374, 1954 D.C. App. LEXIS 186 (Cr.App. 1954).

The purpose of licensing statutes would be frustrated if recovery were permitted for work performed without a license, or when the contract is entered before the issuance of a license, or when some of the preliminary work is done before a license is issued, and the balance of the work is completed after the license has issued. *Cevern, Inc. v. Ferbish*, 120 WLR 2645 (Super. Ct. 1992).

### Validity.

Licensing statute authorizing commissioners of District of Columbia when in their discretion such is advisable to require a license of other businesses or callings not listed is a proper delegation of power, and regulations promulgated thereunder are valid provided determination of commissioners is made by reasonable standards and is not arbitrary. D.C. Code 1940, § 47-2344. *Savage v. District of Columbia*, 54 A.2d 562, 1947 D.C. App. LEXIS 153 (Cr.App. 1947).

### Validity of regulations.

A regulation of Commissioners of District of Columbia requiring a license of owners or operators of mechanical amusement machines, such as a mechanical amusement horse for small children, was not objectionable on ground that such a mechanical horse machine was not in existence at time regulation was adopted. D.C. Code 1951, §§ 47-2301 et seq., 47-2344. *Abdow v. District of Columbia*, 108 A.2d 374, 1954 D.C. App. LEXIS 186 (Cr.App. 1954).

Regulation of Commissioners of District of Columbia defining a mechanical amusement machine as any machine, device, or appliance, except music machine, and requiring a license fee based on number of machines, was not discriminatory in exempting music machines or grouping all other mechanical amusement machines in one class. D.C. Code 1951, §§ 47-2301 et seq., 47-2344. *Abdow v. District of Columbia*, 108 A.2d 374, 1954 D.C. App. LEXIS 186 (Cr.App. 1954).



A regulation of the commissioners of the District of Columbia defining a rooming house for licensing purposes as a building occupied for a consideration by more than four persons who are not members of owner's immediate family was valid, notwithstanding statute relating to fire escapes and safety provisions defined a

rooming house as a building in which rooms are rented and sleeping quarters are provided to accommodate 10 or more persons. D.C. Code 1940, §§ 1-226, 5-312(b), 11-772(a), 45-1601 et seq., 45-1607(b), 47-2301 et seq., 47-2344, 47-2345. *Savage v. District of Columbia*, 54 A.2d 562, 1947 D.C. App. LEXIS 153 (Cr.App. 1947).

## **§ 47-2843. Undertakers' licenses; qualifications; examination; license without examination; authority of Mayor and Council; appropriations; definitions. [Repealed].**

Repealed.

(May 22, 1984, D.C. Law 5-84, § 22(a), 31 DCR 1815.)

**Cross references.** — Funeral directors, licensure, qualifications, applications and examinations, see § 3-405.

Mayor, Council and other officers, licensing and registration fees, Mayor's power to fix, see § 1-301.74.

Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2843.

**Legislative history of Law 5-84.** — Law 5-84, the "D.C. Funeral Services Regulatory Act of 1984," was introduced in Council and assigned Bill No. 5-7 which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on February 28, 1984 and March 13, 1984, respectively. Signed by the Mayor on

March 29, 1984, it was assigned Act No. 5-120 and transmitted to both Houses of Congress for its review.

**Editor's notes.** — Repeal of regulations: Section 22(b) of D.C. Law 5-84 provided that the rules and regulations governing the licensing of undertakers and apprentice undertakers within the District of Columbia, promulgated March 23, 1954 (c.o. 54-644; 17 DCMR Chapter 23), are repealed.

Board of Funeral Directors and Embalmers abolished: Section 22(c) of D.C. Law 5-84 provided that the Board of Funeral Directors and Embalmers, established pursuant to paragraph (2) of subsection (d) of § 47-2843, is abolished on the date that the final member of the Board of Funeral Directors established under § 3-403 takes office.

## **§ 47-2844. Regulations; suspension or revocation of licenses; bonding of licensees authorized to collect moneys; exemptions.**

(a) The Council of the District of Columbia is further authorized and empowered to make any regulations that may be necessary in furtherance of the purpose of this chapter and the Mayor is further authorized and empowered to suspend or revoke any license issued hereunder when, in his judgment, such is deemed desirable in the interest of public decency or the protection of lives, limbs, health, comfort, and quiet of the citizens of the District of Columbia, or for any other reason he may deem sufficient.

(a-1)(1) In accordance with § 2-509, the Mayor shall revoke the license of any licensee who knowingly has permitted on the licensed premises:

(A) The illegal sale, negotiation for sale, or use of any controlled substance as that term is defined in Chapter 9 of Title 48, or the Controlled Substances Act of 1970, approved October 27, 1970 (84 Stat. 1243; 21 U.S.C. § 801 et seq.);

(B) The possession, sale, or negotiation for sale of drug paraphernalia in violation of Chapter 11 of Title 48; or

(C) An act of prostitution as defined in [§ 22-2701.01(1)], or any act that violates any provision of [§§ 22-2701 through 22-2712 and 22-2718 through 22-2723].

(2) The Mayor, by rule, shall establish costs and fines to cover revocation of any license revoked pursuant to paragraph (1) of this subsection.

(b) Notwithstanding any of the provisions of this chapter requiring an inspection as a prerequisite to the issuance of a license, the Council is authorized to provide by regulation that any such inspection shall be made either prior or subsequent to the issuance of a license, but any such license, whether issued prior or subsequent to a required inspection, may be suspended or revoked for failure of the licensee to comply with the laws or regulations applicable to the licensed business, trade, profession, or calling.

(c)(1) The Council may in its discretion require that any class or subclass of licensees licensed under the authority of this chapter to engage in a business, trade, profession or calling involving an express or implied agreement to collect money for others shall give bond to safeguard against financial loss those persons with whom such class or subclass of licensees may so agree.

(2) The bond which may be required by the Council under the authority of this subsection shall be a corporate surety bond in an amount to be fixed by the Council, but not to exceed \$15,000, conditioned upon the observance by the licensee and any agent or employee of said licensee of all laws and regulations in force in the District of Columbia applicable to the licensee's conduct of the business, trade, profession, or calling licensed under the authority of this chapter, for the benefit of any person who may suffer damages resulting from the violation of any such law or regulation by or on the part of such licensee, his agent, or employee.

(3) Any person aggrieved by the violation of any law or regulation applicable to a licensee's conduct of a business, trade, profession, or calling involving the collection of money for others shall have, in addition to his right of action against such licensee, a right to bring suit against the surety on the bond authorized by this subsection, either alone or jointly with the principal thereon, and to recover in an amount not exceeding the penalty of the bond any damages sustained by reason of any act, transaction, or conduct of the licensee and any agent or employee of said licensee which is in violation of law or regulation in force in the District of Columbia relating to the business, trade, profession, or calling licensed under this chapter; and the provisions of the 2nd, 3rd (except the last sentence thereof), and 5th paragraphs of subsection (b) of § 1-301.01 shall be applicable to such bond as if it were the bond authorized by the first paragraph of such subsection (b) of § 1-301.01; provided, that nothing in this subsection shall be construed to impose upon the surety on any such bond a greater liability than the total amount thereof or the amount remaining unextinguished after any prior recovery or recoveries.

(4) This subsection shall not be applicable to persons when engaged in the regular course of any of the following professions or businesses:

(A) Attorneys-at-law;



(B) Persons regularly employed on a regular wage or salary, in the capacity of creditment or in a similar capacity, except as an independent contractor;

(C) Banks and financing and lending institutions;

(D) Common carriers;

(E) Title insurers and abstract companies while doing an escrow business;

(F) Licensed real estate brokers; or

(G) Employees of any class or subclass of licensees required to give bond under this subsection.

(July 1, 1902, 32 Stat. 628, ch. 1352, § 7, par. 46; July 1, 1932, 47 Stat. 563, ch. 366; July 3, 1956, 70 Stat. 491, ch. 511, § 2; Sept. 1, 1959, 73 Stat. 447, Pub. L. 86-217, § 1; Apr. 22, 1960, 74 Stat. 72, Pub. L. 86-431, § 4; Apr. 30, 1988, D.C. Law 7-104, § 43(e), 35 DCR 147; Mar. 8, 1991, D.C. Law 8-231, § 2, 38 DCR 257; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 4, 2006, D.C. Law 16-81, § 5(b), 53 DCR 1050.)

**Cross references.** — Administrative procedure, generally, see § 2-501 et seq.

Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

Public utilities, penal provisions, prosecution, see § 34-731.

**Section references.** — This section is referred to in § 47-2837.

**Prior Codifications.** — 1981 Ed., § 47-2844.

1973 Ed., § 47-2345.

**Effect of amendments.** — D.C. Law 16-81, in subpar. (a-1)(1)(A), substituted “,” for “; or”; in subpar. (a-1)(1)(B) substituted “; or” for “.”; and added new subpar. (a-1)(1)(C).

**Legislative history of Law 7-104.** — For legislative history of D.C. Law 7-104, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 8-231.** — Law 8-231, the “General License Law Amendment Act of 1990,” was introduced in Council and assigned Bill No. 8-250, which was referred to the Committee on Finance and Revenue. The

Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-314 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 16-81.** — Law 16-81, the “Nuisance Abatement Reform Amendment Act of 2006,” was introduced in Council and assigned Bill No. 16-80 which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 6, 2005, and January 4, 2006, respectively. Signed by the Mayor on January 26, 2006, it was assigned Act No. 16-267 and transmitted to both Houses of Congress for its review. D.C. Law 16-81 became effective on April 4, 2006.

**Delegation of Authority.** — Delegation of Authority under D.C. Official Code 47-2844(a), see Mayor’s Order 2008-155, November 14, 2008 (55 DCR 12536).

Delegation of Authority pursuant to D.C. Official Code § 47-2844(a-1), see Mayor’s Order 2009-163, September 25, 2009 (56 DCR 8090).

## CASE NOTES

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**Bonding and liability on bond.**

One should be considered "subject to criminal prosecution" within regulation providing that surety on home improvement bond shall not be liable for any claim unless it arises out of violation of statute or regulation for which principal is subject to criminal prosecution if there appear facts which in court's opinion would constitute prima facie case of violation of any criminal statute committed in connection with improvement contract or of a pertinent home improvement regulation which carries a criminal penalty. D.C. Code §§ 2-2301 et seq., 2-2302(a) (1), 47-2344 to 47-2345; Acts Sept. 6, 1960, 74 Stat. 815. *Gilliam v. Travelers Indem. Co.*, 281 A.2d 429, 1971 D.C. App. LEXIS 204 (1971).

Where president and major stockholder of corporate home improvement contractor collected prepayment on contract and absconded without completing work subjected him to criminal prosecution, surety was liable on home improvement bond under regulation providing that surety shall not be liable for any claim unless it arises out of violation of statute or regulation for which principal is subject to criminal prosecution. D.C. Code §§ 2-2301 et seq., 2-2302(a)(1), 47-2344 to 47-2345; Act Sept. 6, 1960, 74 Stat. 815. *Gilliam v. Travelers Indem. Co.*, 281 A.2d 429, 1971 D.C. App. LEXIS 204 (1971).

**Civil rights.**

The 1873 District of Columbia anti-discrimination regulatory law prescribing in terms of civil rights the duties of restaurateurs to members of public has not been modified, altered or repealed by non-use and administrative practice and by exercise for 75 years of licensing authority over restaurants without regard to equal service requirements. Laws D.C.1871-1873, p. 65, §§ 1-3, p. 116, §§ 1-4; Act June 11, 1878, 20 Stat. 102; D.C. Code 1951, §§ 47-2301, 47-2327, 47-2345. *District of Columbia v. John R. Thompson Co.*, 73 S.Ct. 1007, 1953 U.S. LEXIS 2001 (U.S.Dist.Col. 1953).

**Construction and application.**

Statutes should be interpreted, if explicit language does not preclude, so as to observe due process. D.C. Code 1951, § 47-2345. *Silver v. McCamey*, 221 F.2d 873, 1955 U.S. App. LEXIS 3589 (C.A.D.C. 1955).

**Delegation of administrative powers.**

Broad delegation to Board of Appeals and Review of jurisdiction over appeals submitted by applicants for licenses, permits and certificates from actions taken by responsible officials of Department of Licenses and Inspections is

not inconsistent with statutes giving Commissioners of District of Columbia broad authority to enact regulations including regulations which delegate jurisdiction over licenses. Order No. 112, D.C. Code 1961, Title 1, Appendix; D.C. Code 1961, § 47-2345(a). *Brown v. Tobriner*, 218 F. Supp. 754, 1963 U.S. Dist. LEXIS 7532 (D.D.C.1963).

**Initial license applications.**

General power, under statute providing that District of Columbia commissioners may suspend or revoke any license issued when in their judgment such is deemed desirable in the interest of public decency or for the protection of the citizens of the District, reasonably implies the power to deny initial license applications. D.C. Code § 47-2345(a). *Miller v. District of Columbia Board of Appeals & Review*, 294 A.2d 365, 1972 D.C. App. LEXIS 251 (1972).

Evidence did not support refusal to issue license to applicant to sell costume jewelry, where only finding relevant to conclusion that applicant was not presently rehabilitated was a finding that he had not been rehabilitated in 1969, when he was last convicted, and where there was other evidence to the effect that applicant had recently discovered a mission, that being counseling narcotics addicts, that he had acquired a skill in handicraft while in prison, and that he had been hired full time to work at a treatment center for narcotics addicts, all of which taken together provided a strong incentive to eschew a life of crime. D.C. Code §§ 1-1510(3)(E), 47-2336, 47-2345(a). *Miller v. District of Columbia Board of Appeals & Review*, 294 A.2d 365, 1972 D.C. App. LEXIS 251 (1972).

**Judicial remedies.**

Office of Consumer Protection was not entitled to rescission of underlying porch extension contract between contractor and consumer in agency's action for enforcement of consent decree, particularly where there were issues of material fact as to contract performance, even though contractor admitted in his answer that he did not have license to perform work and that he received advance payments from consumer, in violation of licensing law [D.C. Code §§ 47-2842, 47-2844]. D.C. Code 1981, § 28-3905. *Baker v. District of Columbia*, 494 A.2d 1299, 1985 D.C. App. LEXIS 420 (1985).

**Judicial review.**

Store owner fined for unlicensed mechanical amusement machines could not be deemed to have waived claim that regulation provided only for criminal penalties, proceeding in which fine was imposed was civil, and Board of Appeals and Review had no authority to use criminal penalty provision as basis for civil fine, by failing to raise the argument before administrative law judge (ALJ) and Board; the argu-



ment pertained to subject matter jurisdiction, which was subject to review at any time. *F.W. Woolworth Co. v. District of Columbia Bd. of Appeals & Review*, 579 A.2d 713, 1990 D.C. App. LEXIS 213 (1990).

On appeal from decision of the Board of Appeals and Review sustaining administrative law judge's (ALJ) imposition of civil fine for unlicensed mechanical amusement machines, but reducing amount of fine, Court of Appeals is limited to factual record before ALJ, as Board limits its review to record before ALJ. *F.W. Woolworth Co. v. District of Columbia Bd. of Appeals & Review*, 579 A.2d 713, 1990 D.C. App. LEXIS 213 (1990).

Where there was no finding of Hackers' License Appeal Board that hacker had violated valid public service commission taxicab regulation or that suspension of hackers' license was warranted for protection of public health, comfort or in interest of public decency, nor was there probative or substantial evidence in record upon which such finding could be made, suspension of license for refusal to transport patron unless he rode in front seat of taxicab was erroneous. D.C. Code §§ 47-2331(d), 47-2345(a). *Proctor v. Hackers' Board*, 268 A.2d 267, 1970 D.C. App. LEXIS 321 (App. 1970).

### **Police powers.**

The council of the District of Columbia has broad authority to regulate business and professional licenses, and to promulgate regulations implementing those licensing powers. D.C. Code 1978 Supp. § 47-2344; D.C. Code 1973, § 47-2345(a). *Woods v. District of Columbia Nurses' Examining Bd.*, 436 A.2d 369, 1981 D.C. App. LEXIS 380 (1981).

The housing code does not, on its face, constitute an unconstitutional exercise of police power. D.C. Code §§ 47-2328, 47-2345. *Holmes v. District of Columbia Board of Appeals & Review*, 351 A.2d 518, 1976 D.C. App. LEXIS 466 (1976).

There is strong presumption of constitutionality afforded to regulations regulating businesses under police power in interest of public safety, and one attacking such regulations on due process grounds carries heavy burden of showing that regulation is unreasonable and has no rational relationship to objective sought to be obtained. D.C. Code §§ 1-226, 47-2345(a). *Vanderhoof v. District of Columbia*, 269 A.2d 112, 1970 D.C. App. LEXIS 342 (App. 1970).

License required by police regulation, defining a mechanical amusement machine to mean any machine, device, or appliance, except music machine, offered for use by the public, as a game, entertainment, or amusement which may be operated or caused to operate by the insertion of a coin, and providing that owners or operators of establishments in which mechanical amusement machines are offered for

public use shall obtain an annual license and pay an annual license fee of \$12 for first three machines, plus \$12 for each additional three machines or fraction thereof, was on the calling and not the machine. D.C. Code 1951, §§ 47-2301 et seq., 47-2344. *Abdow v. District of Columbia*, 108 A.2d 374, 1954 D.C. App. LEXIS 186 (Cr.App. 1954).

### **Regulations.**

#### **— Construction of regulations.**

Regulation section defining violation of any provision of statute or rule cited elsewhere in the section requiring periodic renewal of license as class III infraction did not apply to violation of differently numbered section not listed on civil fine schedule, even though that other section was promulgated pursuant to General License Law and provisions of that statute are cited throughout the referenced section. *F.W. Woolworth Co. v. District of Columbia Bd. of Appeals & Review*, 579 A.2d 713, 1990 D.C. App. LEXIS 213 (1990).

#### **— Effect of violation of regulations.**

Unlicensed contractors who violate municipal regulations by accepting payment before completion of construction project render a contract void and unenforceable and therefore may not recover under it; any monies paid may be recovered from contractor and no quantum meruit may be awarded. D.C. Mun.Reg. title 16, § 800.1. *Marzullo v. Molineaux*, 651 A.2d 808, 1994 D.C. App. LEXIS 238 (1994).

Rule that illegal contract is void and confers no right on the wrongdoer applies to contractor who breaches regulation requiring that persons engaged in home improvement have a home improvement contractor's license. D.C. Code 1981, §§ 2-501, 47-2842, 47-2844. *Capital Constr. Co. v. Plaza West Coop. Ass'n*, 604 A.2d 428, 1992 D.C. App. LEXIS 66 (1992).

Two home improvement contracts which were made within three days of each other and which related to same house were unenforceable when unlicensed contractor violated District of Columbia home improvement regulations by accepting from homeowner \$3,000 in full payment under first agreement before completion of work thereunder, and homeowner could recover the \$3,000 from contractor. D.C. Code §§ 47-2344, 47-2345. *Miller v. Peoples Contractors, Ltd.*, 257 A.2d 476, 1969 D.C. App. LEXIS 330 (App. 1969).

#### **— Housing code, regulations.**

Housing code, as applied in case in which application for renewal of license to operate apartment house was denied by the business licenses and permits division of the Department of Economic Development, was not void for vagueness where petitioner did not dispute the building inspector's findings as to the exis-

tence of housing code violations or contend that they were the result of his failure to understand regulations. D.C. Code §§ 1-226, 1-228, 47-2328, 47-2345. *Holmes v. District of Columbia Board of Appeals & Review*, 351 A.2d 518, 1976 D.C. App. LEXIS 466 (1976).

The Department of Economic Development may, following appropriate procedures, withhold a license to operate an apartment house on the basis of the existence of substantial housing code violations affecting the public health and safety. D.C. Code §§ 47-2328, 47-2345. *Holmes v. District of Columbia Board of Appeals & Review*, 351 A.2d 518, 1976 D.C. App. LEXIS 466 (1976).

#### — Scope of regulatory powers, regulations.

Commissioners of District of Columbia could not confer absolutely upon the Board of Revocation and Review of Hackers' Identification Cards the power to revoke licenses, which power had been placed in the Commissioners by statute, where statute imposed a greater duty on Commissioners than mere administrative supervision, so that Commissioners could not void or shunt away by way of delegation the duties imposed by statute. D.C. Code 1951, §§ 47-2331, 47-2345. *Frazier v. Silver*, 185 F.Supp. 625, 1960 U.S. Dist. LEXIS 3539 (D.D.C.1960).

Only where District of Columbia council promulgates regulation explicitly making violation of public service commission taxicab regulation grounds for suspension or revocation of a hackers' license can such violation constitute basis for suspension or revocation order by Hackers' License Appeal Board. D.C. Code §§ 47-2331(d), 47-2345(a). *Proctor v. Hackers' Board*, 268 A.2d 267, 1970 D.C. App. LEXIS 321 (App. 1970).

#### — Validity.

Undertaker had notice that his conduct violated regulation prohibiting nonlicensed persons from transporting dead bodies, prior to proceedings for revocation of license, though undertaker did not receive clarification of regulation from agency which administered it until date he was charged with violating it, where regulation was published 12 years before charges were filed and it did not need clarification. *Vann v. District of Columbia Bd. of Funeral Directors & Embalmers*, 480 A.2d 688, 1984 D.C. App. LEXIS 439 (1984).

Revocation of undertaker's license on account of his employee's negligence did not violate due process where regulation holding undertaker accountable for acts of his employee was reasonably designed to protect public interest, and was not applied to undertaker in arbitrary or discriminatory manner and where administrative proceeding resulting in revocation of his

license also had rational public purpose. U.S. Const.Amend. 5. *Vann v. District of Columbia Bd. of Funeral Directors & Embalmers*, 480 A.2d 688, 1984 D.C. App. LEXIS 439 (1984).

Where regulation governing taxicab drivers was validly enacted, properly published in District of Columbia register and accessible to driver, it would not be declared invalid because of inadvertent omission in its compilation resulting from typographical error. D.C. Code §§ 47-2331(d), 47-2345(a). *Pillis v. District of Columbia Hackers' License Appeal Board*, 366 A.2d 1094, 1976 D.C. App. LEXIS 421 (1976), writ of certiorari denied by 430 U.S. 937, 97 S. Ct. 1566, 51 L. Ed. 2d 784, 1977 U.S. LEXIS 1243 (1977).

A regulation of Commissioners of District of Columbia requiring a license of owners or operators of mechanical amusement machines, such as a mechanical amusement horse for small children, was not objectionable on ground that such a mechanical horse machine was not in existence at time regulation was adopted. D.C. Code 1951, §§ 47-2301 et seq., 47-2344. *Abdow v. District of Columbia*, 108 A.2d 374, 1954 D.C. App. LEXIS 186 (Cr.App. 1954).

Regulation of Commissioners of District of Columbia defining a mechanical amusement machine as any machine, device, or appliance, except music machine, and requiring a license fee based on number of machines, was not discriminatory in exempting music machines or grouping all other mechanical amusement machines in one class. D.C. Code 1951, §§ 47-2301 et seq., 47-2344. *Abdow v. District of Columbia*, 108 A.2d 374, 1954 D.C. App. LEXIS 186 (Cr.App. 1954).

A regulation of the commissioners of the District of Columbia defining a rooming house for licensing purposes as a building occupied for a consideration by more than four persons who are not members of owner's immediate family was valid, notwithstanding statute relating to fire escapes and safety provisions defined a rooming house as a building in which rooms are rented and sleeping quarters are provided to accommodate 10 or more persons. D.C. Code 1940, §§ 1-226, 5-312(b), 11-772(a), 45-1601 et seq., 45-1607(b), 47-2301 et seq., 47-2344, 47-2345. *Savage v. District of Columbia*, 54 A.2d 562, 1947 D.C. App. LEXIS 153 (Cr.App. 1947).

#### Revocation and nonrenewal of licenses.

#### — Administrative review and determination, revocation and nonrenewal of licenses.

In proceeding before District of Columbia Board of Funeral Directors and Embalmers to suspend undertaker's license, evidence was sufficient to sustain findings that undertaker engaged in acts detrimental to public health and safety and that undertaker engaged in annoy-



ing and unseemly conduct in performing or offering to perform undertaking services. D.C. Code 1973, §§ 47-2344a, 47-2345, 47-2345(a). *Vann v. District of Columbia Bd. of Funeral Directors & Embalmers*, 441 A.2d 246, 1982 D.C. App. LEXIS 266 (1982).

The mere filing of an appeal before the Board of Appeals and Review pursuant to the denial of petitioner's application for renewal of his license to operate an apartment house by the business licenses and permits division of the Department of Economic Development did not stay the effect of the denial of the renewal application. D.C. Code §§ 47-2328, 47-2345; Reorganization Order No. 112, Pt. 1, subd. C, par. *Holmes v. District of Columbia Board of Appeals & Review*, 351 A.2d 518, 1976 D.C. App. LEXIS 466 (1976).

The Board of Appeals and Review has the power to order a stay pending final judgment and should stay an order denying an application for renewal of a license to operate an apartment house if requested to do so by a petitioner so that a due process hearing may take place. D.C. Code §§ 47-2328, 47-2345; Reorganization Order No. 112, Pt. 1, subd. C, par. *Holmes v. District of Columbia Board of Appeals & Review*, 351 A.2d 518, 1976 D.C. App. LEXIS 466 (1976).

Although decision of Board of Appeals and Review, sustaining proposal to revoke corporation's licenses to operate coin-operated motion picture machines in book stores, contained findings and conclusions, there was nothing to explain conclusion that conviction of corporation's former president of selling an obscene book at book shop operated by corporation required that corporation's license for the machines be revoked in interest of public decency; significantly, there was no finding of fact as to what interest, if any, former president held at time of the revocation proceedings, nor was there any finding with respect to character of pictures exhibited on the machines. D.C. Code §§ 1-1509(e), 22-2001, 47-2345. *Village Books, Inc. v. District of Columbia Board of Appeals & Review*, 296 A.2d 613, 1972 D.C. App. LEXIS 279 (1972).

Hackers' License Appeal Board may not suspend or revoke hackers' license unless it concludes after hearing and upon appropriate findings as required by Administrative Procedure Act that valid regulation promulgated by District of Columbia council under statute prescribing suspension or revocation has been violated, or unless it can show on record reliable, probative, and substantial evidence supporting its own conclusion that suspension or revocation of the particular license will be "in interest of public decency" or "necessary for protection of life, limbs, health, comfort and quiet of citizens." D.C. Code §§ 1-1501 to 1-1510, 1-1509, 1-1509(e), 47-2331(d), 47-2345(a). *Proctor v.*

*Hackers' Board*, 268 A.2d 267, 1970 D.C. App. LEXIS 321 (App. 1970).

#### — Criminal charges pending or determined, revocation and nonrenewal of licenses.

Where criminal charge is pending against licensed taxicab operator, Board of Revocation and Review of Hackers' Identification Licenses may hold hearing on other charges and, if it finds them sufficient, revoke license, or board may hold hearing while criminal charges are pending and take action on question whether, because criminal charge is pending, license should be temporarily suspended. D.C. Code 1951, § 47-2345. *Silver v. McCamey*, 221 F.2d 873, 1955 U.S. App. LEXIS 3589 (C.A.D.C. 1955).

Revocation of taxicab operator's license by Board of Revocation and Review of Hackers' Identification Licenses, on ground he had sexually assaulted and robbed citizen at gun point, was violation of due process where hearing on charges was held while criminal charges based on same alleged offense were pending. D.C. Code 1951, § 47-2345. *Silver v. McCamey*, 221 F.2d 873, 1955 U.S. App. LEXIS 3589 (C.A.D.C. 1955).

#### — In general.

Where housing code violations had a substantially detrimental effect on the health and safety of the tenants of petitioner's apartment building, denial of petitioner's license renewal application was justified, particularly in light of the cumulative effect of the numerous violations. D.C. Code §§ 47-2328, 47-2345. *Holmes v. District of Columbia Board of Appeals & Review*, 351 A.2d 518, 1976 D.C. App. LEXIS 466 (1976).

#### — Procedural rights of licensees, revocation and nonrenewal of licenses.

Where undertaker admitted facts supporting charges which led to revocation of his license, decision of Board of Funeral Directors and Embalmers to proceed with hearing, though one witness refused to testify because of grand jury investigation taking place, did not violate undertaker's Fifth Amendment right to due process or his Sixth Amendment right to confront witnesses against him. U.S. Const. Amends. 5, 6. *Vann v. District of Columbia Bd. of Funeral Directors & Embalmers*, 480 A.2d 688, 1984 D.C. App. LEXIS 439 (1984).

Where petitioner, whose application for renewal of his license to operate an apartment house was denied by the business licenses and permits division of the Department of Economic Development, had been conducting a going business under license, property rights had attached and the Fifth Amendment to the Constitution entitled him to a due process hearing in regard to nonrenewal of his license, even

though the licensing regulation itself does not make a hearing a prerequisite to nonrenewal. D.C. Code §§ 47-2328, 47-2345. *Holmes v. District of Columbia Board of Appeals & Review*, 351 A.2d 518, 1976 D.C. App. LEXIS 466 (1976).

The hearing required for consideration of application for renewal of license to operate apartment house need not always precede the taking of administrative action denying the renewal; it is sufficient if somewhere in the administrative-judicial process, due process is afforded an applicant. U.S. Const. Amend. 5;

D.C. Code §§ 47-2328, 47-2345. *Holmes v. District of Columbia Board of Appeals & Review*, 351 A.2d 518, 1976 D.C. App. LEXIS 466 (1976).

#### **Suspension of licenses.**

Temporary suspension of a license, unlike revocation, pending serious criminal charge, is not necessarily inconsistent with due process. D.C. Code 1951, § 47-2345. *Silver v. McCamey*, 221 F.2d 873, 1955 U.S. App. LEXIS 3589 (C.A.D.C. 1955).

### **§ 47-2844.01. Cease and desist orders.**

(a)(1) When a board, or the Mayor, after investigation but prior to a hearing, has cause to believe that a person is violating any provision of this chapter and the violation has caused or may cause immediate and irreparable harm to the public, the board or the Mayor may issue an order requiring the alleged violator to cease and desist immediately from the violation. The order shall be served by certified mail or delivery in person.

(2) A copy of the cease and desist order shall be served on the holder of a certificate of occupancy for the premises and on the property owner of record if each of these persons or entities are separate and distinct from the licensee.

(b)(1) The alleged violator may, within 15 days of the service of the order, submit a written request to the board to hold a hearing on the alleged violation.

(2) Upon receipt of a timely request, the board shall conduct a hearing and render a decision pursuant to § 47-2853.22.

(c)(1) The alleged violator may, within 10 days of the service of an order, submit a written request to the board for an expedited hearing on the alleged violation, in which case he or she shall waive his or her right to the 15-day notice required by subsection (b)(1) of this section.

(2) Upon receipt of a timely request for an expedited hearing, the board shall conduct a hearing within 10 days of the date of receiving the request and shall deliver to the alleged violator at his or her last known address a written notice of the hearing by any means guaranteed to be received at least 5 days before the hearing date.

(3) The board shall issue a decision within 30 days after an expedited hearing.

(d) If a request for a hearing is not made pursuant to subsections (b) and (c) of this section, the order of the board to cease and desist shall be final.

(e) If, after a hearing, the board determines that the alleged violator is not in violation of this subchapter, the board shall vacate the order to cease and desist.

(f) If any person fails to comply with a lawful order of a board issued pursuant to this section, the board may petition the court to issue an order compelling compliance or take any other action authorized by this chapter.

(Apr. 4, 2006, D.C. Law 16-81, § 5(c), 53 DCR 1050.)



**Legislative history of Law 16-81.** — For Law 16-81, see notes following § 47-2884.

## § 47-2845. Prosecutions.

Prosecutions for violations of any of the provisions of this chapter, or of any section added hereto from time to time by the Council of the District of Columbia, or of any regulation made by the Council under authority of this chapter, shall be on information in the Superior Court of the District of Columbia by the Attorney General for the District of Columbia or any of his assistants.

(July 1, 1902, 32 Stat. 628, ch. 1352, § 7, par. 47; July 1, 1932, 47 Stat. 563, ch. 366; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); Apr. 30, 1988, D.C. Law 7-104, § 43(f), 35 DCR 147; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 13, 2005, D.C. Law 15-354, § 73(l)(4), 52 DCR 2638; Mar. 2, 2007, D.C. Law 16-191, § 48(h)(3), 53 DCR 6794.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2845.

1973 Ed., § 47-2346.

**Effect of amendments.** — D.C. Law 15-354 substituted “Attorney General for the District of Columbia” for “Corporation Counsel”.

D.C. Law 16-191 validated a previously made technical correction.

**Legislative history of Law 7-104.** — For legislative history of D.C. Law 7-104, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

**Legislative history of Law 16-191.** — Law 16-191, the “Technical Amendments Act of 2006”, was introduced in Council and assigned Bill No. 16-760, which was referred to the Committee of the whole. The Bill was adopted on first and second readings on June 20, 2006, and July 11, 2006, respectively. Signed by the Mayor on July 31, 2006, it was assigned Act No. 16-475 and transmitted to both Houses of Congress for its review. D.C. Law 16-191 became effective on March 2, 2007.

## § 47-2846. Penalties.

Any person violating any of the provisions of this chapter, or additions thereto made from time to time by the Council of the District of Columbia, where no specific penalty is fixed, or the violation of any regulation made by the Council under the authority of this chapter, shall upon conviction be fined not more than \$300 or imprisoned for not more than 90 days. Any person failing to file any information required by this chapter, or by any regulation of the Council made under the provisions hereof, or who in filing any such information makes any false or misleading statement, shall upon conviction be fined not more than \$300 or imprisoned for not more than 90 days. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this chapter, or any rules or regulations issued under the authority of this chapter, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this chapter shall be pursuant to Chapter 18 of Title 2.

(July 1, 1902, 32 Stat. 628, ch. 1352, § 7, par. 48; July 1, 1932, 47 Stat. 563, ch. 366; Oct. 5, 1985, D.C. Law 6-42, § 469(b), 32 DCR 4450; Apr. 30, 1988, D.C.

Law 7-104, § 43(g), 35 DCR 147; Mar. 8, 1991, D.C. Law 8-237, § 28, 38 DCR 314; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2846.

1973 Ed., § 47-2347.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2 of Elimination of Unlicensed Group Residential Facilities Temporary Act of 2000 (D.C. Law 13-144, July 18, 2000, law notification 47 DCR 6094).

**Emergency legislation.** — For temporary (90-day) amendment of section, see § 2 of the Elimination of Unlicensed Group Residential Facilities Emergency Amendment Act of 2000 (D.C. Act 13-318, April 17, 2000, 47 DCR 2880).

**Legislative history of Law 6-42.** — For

legislative history of D.C. Law 6-42, see Historical and Statutory Notes following § 47-2808.

**Legislative history of Law 7-104.** — For legislative history of D.C. Law 7-104, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 8-237.** — Law 8-237, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985 Technical and Clarifying Amendments Act of 1990," was introduced in Council and assigned Bill No. 8-203, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-320 and transmitted to both Houses of Congress for its review.

## CASE NOTES

### ANALYSIS

Civil fines.  
In general.  
Jurisdiction.  
Jury trial rights.  
Pleadings and proof.  
Private rights and remedies.  
Respondeat superior.  
Validity of fines.

### Civil fines.

Store owner fined for unlicensed mechanical amusement machines could not be deemed to have waived claim that regulation provided only for criminal penalties, proceeding in which fine was imposed was civil, and Board of Appeals and Review had no authority to use criminal penalty provision as basis for civil fine, by failing to raise the argument before administrative law judge (ALJ) and Board; the argument pertained to subject matter jurisdiction, which was subject to review at any time. *F.W. Woolworth Co. v. District of Columbia Bd. of Appeals & Review*, 579 A.2d 713, 1990 D.C. App. LEXIS 213 (1990).

Department of Consumer and Regulatory Affairs has jurisdiction to impose civil fines in lieu of criminal penalties for violations of regulation requiring licenses for mechanical amusement machines. D.C. Code 1981, §§ 6-2701 to 6-2723, 47-2846. *F.W. Woolworth Co. v. District of Columbia Bd. of Appeals & Review*, 579 A.2d 713, 1990 D.C. App. LEXIS 213 (1990).

Department of Consumer and Regulatory Affairs has authority to include violation of section requiring licenses for mechanical amuse-

ment machines among classes of regulatory violations subject to civil fines. D.C. Code 1981, § 47-2846. *F.W. Woolworth Co. v. District of Columbia Bd. of Appeals & Review*, 579 A.2d 713, 1990 D.C. App. LEXIS 213 (1990).

Although Department of Consumer and Regulatory Affairs has authority to include violation of regulation requiring licenses for mechanical amusement machines among classes of regulatory violations subject to civil fine, where Department had not done so using required formal procedures, Department could not impose fine on ad hoc basis, without adequate notice. D.C. Code 1981, § 47-2846. *F.W. Woolworth Co. v. District of Columbia Bd. of Appeals & Review*, 579 A.2d 713, 1990 D.C. App. LEXIS 213 (1990).

### In general.

Regulation section defining violation of any provision of statute or rule cited elsewhere in the section requiring periodic renewal of license as class III infraction did not apply to violation of differently numbered section not listed on civil fine schedule, even though that other section was promulgated pursuant to General Licensure Law and provisions of that statute are cited throughout the referenced section. *F.W. Woolworth Co. v. District of Columbia Bd. of Appeals & Review*, 579 A.2d 713, 1990 D.C. App. LEXIS 213 (1990).

### Jurisdiction.

Department of Consumer and Regulatory Affairs Civil Infractions Act gives Department jurisdiction over rules and regulations issued under authority of General Licensure Law. D.C.



Code 1981, §§ 6-2701 to 6-2723, 47-2846. F.W. Woolworth Co. v. District of Columbia Bd. of Appeals & Review, 579 A.2d 713, 1990 D.C. App. LEXIS 213 (1990).

### **Jury trial rights.**

Engaging in business of selling secondhand property, such as unused portion of railway excursion tickets, without license, was not indictable at common law and is at most but an infringement of local police regulations and its moral quality is relatively inoffensive, as regards right to trial by jury. Act July 1, 1902, § 7, par. 39, as amended by Act July 1, 1932, 47 Stat. 558; D.C. Code 1929, T. 18, § 165; Const. art. 3, § 2, cl. 3; Amend. 6. District of Columbia v. Clawans, 57 S.Ct. 660, 1937 U.S. LEXIS 84 (U.S. Dist. Col. 1937).

Severity of penalty may be considered in determining whether statutory offense, in other respects trivial and not crime at common law, must be deemed so serious as to be comparable with common-law crime and thus to entitle accused to benefit of jury trial. U.S. Const. art. 3, § 2, cl. 3; Amend. 6. District of Columbia v. Clawans, 57 S.Ct. 660, 1937 U.S. LEXIS 84 (U.S. Dist. Col. 1937).

In prosecution for engaging, without license, in business of dealer in secondhand personalty consisting of unused portions of railway excursion tickets, accused held not entitled to jury trial, notwithstanding statute creating offense permitted punishment by fine of not more than \$300 or imprisonment for not more than 90 days and notwithstanding accused was not entitled to appeal as of right. Act July 1, 1902, § 7, par. 39, as amended by Act July 1, 1932, 47 Stat. 558; D.C. Code 1929, T. 18, § 165; D.C. Code 1929, T. 18, § 28; U.S. Const. art. 3, § 2, cl. 3; Amend. 6. District of Columbia v. Clawans, 57 S.Ct. 660, 1937 U.S. LEXIS 84 (U.S. Dist. Col. 1937).

A single offense of using premises for a purpose other than a single family dwelling without an occupancy permit or of operating a rooming house without a license, is a petty offense not involving moral turpitude nor indictable at common law, and therefore a jury trial is not demandable as of right. D.C. Code 1940, §§ 11-616, 47-2347. Savage v. District of Columbia, 54 A.2d 562, 1947 D.C. App. LEXIS 153 (Cr.App. 1947).

### **Pleadings and proof.**

Administrative law judge's (ALJ) error in citing statute pursuant to which fine was imposed for unlicensed mechanical amusement machines did not deprive store owner of notice of charge, where store owner acknowledged

during argument that it had been aware charged wrong actually concerned violation under particular regulation. F.W. Woolworth Co. v. District of Columbia Bd. of Appeals & Review, 579 A.2d 713, 1990 D.C. App. LEXIS 213 (1990).

### **Private rights and remedies.**

Unlicensed contractors who violate municipal regulations by accepting payment before completion of construction project render a contract void and unenforceable and therefore may not recover under it; any monies paid may be recovered from contractor and no quantum meruit may be awarded. D.C. Mun. Regs. title 16, § 800.1. Marzullo v. Molineaux, 651 A.2d 808, 1994 D.C. App. LEXIS 238 (1994).

Rule that illegal contract is void and confers no right on the wrongdoer applies to contractor who breaches regulation requiring that persons engaged in home improvement have a home improvement contractor's license. D.C. Code 1981, §§ 2-501, 47-2842, 47-2844. Capital Constr. Co. v. Plaza West Coop. Ass'n, 604 A.2d 428, 1992 D.C. App. LEXIS 66 (1992).

Two home improvement contracts which were made within three days of each other and which related to same house were unenforceable when unlicensed contractor violated District of Columbia home improvement regulations by accepting from homeowner \$3,000 in full payment under first agreement before completion of work thereunder, and homeowner could recover the \$3,000 from contractor. D.C. Code §§ 47-2344, 47-2345. Miller v. Peoples Contractors, Ltd., 257 A.2d 476, 1969 D.C. App. LEXIS 330 (App. 1969).

### **Respondeat superior.**

If either a statute or regulation expresses an intent to impose a penalty or forfeiture on an employer for acts or omissions of an employee, the employer may be held accountable under doctrine of respondeat superior even without any separate culpable fault or omission on his part. Vann v. District of Columbia Bd. of Funeral Directors & Embalmers, 480 A.2d 688, 1984 D.C. App. LEXIS 439 (1984).

### **Validity of fines.**

Where fine of \$150 imposed on one convicted of operating rooming house without a license was only half of the maximum permitted by statute, fine could not be termed excessive as a matter of law by Municipal Court of Appeals on appeal and could not be reduced. D.C. Code 1940, § 47-2347. Tillman v. District of Columbia, 77 A.2d 316, 1950 D.C. App. LEXIS 201 (Cr.App. 1950).

## **§ 47-2847. Saving clause.**

Any violation of any provision of law or regulation issued hereunder which

is repealed by this chapter and any liability arising under such provisions or regulations may, if the violation occurred or the liability arose prior to such repeal, be prosecuted to the same extent as if this chapter had not been enacted.

(July 1, 1902, 32 Stat. 628, ch. 1352, § 7, par. 49; July 1, 1932, 47 Stat. 563, ch. 366; Apr. 30, 1988, D.C. Law 7-104, § 43(h), 35 DCR 147; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2847.

1973 Ed., § 47-2348.

**Legislative history of Law 7-104.** — For legislative history of D.C. Law 7-104, see Historical and Statutory Notes following § 47-2801.

## § 47-2848. Severability.

If any provision of this chapter is declared unconstitutional or the applicability thereof to any person or circumstance is held invalid, the validity of the remainder of the chapter and the applicability of such provision to other persons and circumstances shall not be affected thereby.

(July 1, 1902, 32 Stat. 628, ch. 1352, § 7, par. 50; July 1, 1932, 47 Stat. 563, ch. 366; Apr. 30, 1988, D.C. Law 7-104, § 43(i), 35 DCR 147; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 47-2848.

1973 Ed., § 47-2349.

**Legislative history of Law 7-104.** — For legislative history of D.C. Law 7-104, see Historical and Statutory Notes following § 47-2801.

## § 47-2849. Refund of erroneously-paid fees.

The Mayor of the District of Columbia is authorized to refund any license fee or tax, or portion thereof, erroneously paid or collected under this chapter.

(July 1, 1902, 32 Stat. 628, ch. 1352, § 7, par. 51; July 1, 1932, 47 Stat. 563, ch. 366; Apr. 30, 1988, D.C. Law 7-104, § 43(j), 35 DCR 147; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Mayor, Council and other offices, application of certain sections to boards, commissions and committees, see § 1-321.02.

Real property tax sales, refunds, see §§ 47-1317 to 47-1319.

**Prior Codifications.** — 1981 Ed., § 47-2849.

1973 Ed., § 47-2350.

**Legislative history of Law 7-104.** — For legislative history of D.C. Law 7-104, see Historical and Statutory Notes following § 47-2801.



## § 47-2850. Rules governing the business of furnishing towing services for motor vehicles.

(a) The Mayor is authorized, in accordance with [subchapter I of Chapter 5 of Title 2], to:

(1) Promulgate rules to govern the business of furnishing towing services for motor vehicles; and

(2) Amend or repeal any provision of chapter 4 of Title 16 of the District of Columbia Municipal Regulations governing the business of furnishing towing services for motor vehicles.

(b) Rules proposed pursuant to this section shall be submitted to the Council for a 45-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed regulations, in whole or in part, by resolution, within this 45-day review period, the proposed regulations shall be deemed disapproved.

(c)(1) Any person who violates any of the rules promulgated pursuant to this section shall be guilty of a misdemeanor and upon conviction, shall be subject to a fine not exceeding \$1,000 per violation, imprisonment for not more than 90 days, or both.

(2) All prosecutions for violations of any rule or regulation issued pursuant to this section shall be in the Criminal Division of the Superior Court of the District of Columbia in the name of the District of Columbia by information signed by the Attorney General or one of his or her assistants.

(3) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the rules issued pursuant to this section, pursuant to Chapter 18 of Title 2. Adjudication of any infractions shall be pursuant Chapter 18 of Title 2.

(Apr. 5, 2005, D.C. Law 15-279, § 2, 52 DCR 841.)

**Cross references.** — Alcoholic beverage control, licensing, see § 25-101 et seq.

Child foster care placement, licensing and endorsements, see § 4-1402.

Cooperative associations, licensing and endorsements, see § 29-944.

Educational institutions, licensing and endorsements, see § 29-615.

Financial institutions, money lenders, licensing and endorsements, see § 26-901.

Mortgage lenders and brokers, licensing and endorsements, see § 26-1103.

Taxicabs, licensing and endorsements, see § 50-319.

Weapons sales, licensing and endorsements, see § 22-4510.

**Temporary Addition of Section.** — For temporary (225 day) addition of section, see § 2(b) of Towing Vehicles Rulemaking Authority Temporary Act of 2002 (D.C. Law 14-126, May 2, 2002, law notification 49 DCR 4401).

For temporary (225 day) addition of section, see § 2(b) of Towing Vehicles Rulemaking Authority Continuation Temporary Act of 2002

(D.C. Law 14-277, April 2, 2003, law notification 50 DCR 2740).

For temporary (225 day) addition of section, see § 2(b) of Towing Regulation and Enforcement Authority Temporary Act of 2003 (D.C. Law 15-93, March 10, 2004, law notification 51 DCR 3613).

For temporary (225 day) addition of section, see § 2 of Towing Regulation and Enforcement Authority Temporary Act of 2004 (D.C. Law 15-248, March 17, 2005, law notification 52 DCR 4124).

**Emergency legislation.** — For temporary (90 day) addition of § 47-2850, see § 2(b) of Towing Vehicles Rulemaking Authority Emergency Act of 2002 (D.C. Act 14-266, January 30, 2002, 49 DCR 1465).

For temporary (90 day) addition of § 47-2850, see § 2(b) of Towing Vehicles Rulemaking Authority Continuation Emergency Act of 2002 (D.C. Act 14-567, December 23, 2002, 50 DCR 294).

For temporary (90 day) addition of section, see § 2 of Towing Regulation and Enforcement

Authority Emergency Act of 2003 (D.C. Act 15-225, November 25, 2003, 50 DCR 10706).

For temporary (90 day) addition of section, see § 2(b) of Towing Regulation and Enforcement Authority Congressional Review Emergency Act of 2004 (D.C. Act 15-373, February 19, 2004, 51 DCR 2615).

For temporary (90 day) addition of section, see § 2(b) of Towing Regulation and Enforcement Authority Emergency Act of 2004 (D.C. Act 15-554, October 26, 2004, 51 DCR 10364).

For temporary (90 day) addition of section, see § 2(b) of Towing Regulation and Enforcement Authority Congressional Review Emergency Act of 2005 (D.C. Act 16-17, February 17, 2005, 52 DCR 2960).

**Legislative history of Law 15-279.** — Law 15-279, the “Towing Regulation and Enforcement Authority Act of 2004”, was introduced in Council and assigned Bill No. 15-364, which

was referred to the Committee on Public Works and Environment. The Bill was adopted on first and second readings on November 9, 2004, and December 7, 2004, respectively. Signed by the Mayor on December 29, 2004, it was assigned Act No. 15-670 and transmitted to both Houses of Congress for its review. D.C. Law 15-279 became effective on April 5, 2005.

**Resolutions.** — Resolution 15-62, the “Towing Services for Motor Vehicles Rulemaking Approval Resolution of 2003”, was approved effective March 18, 2003.

Resolution 15-437, the “Towing Regulation and Enforcement Authority Approval Resolution of 2004”, was approved effective February 3, 2004.

Resolution 15-813, the “Towing Regulation and Enforcement Authority Regulation Approval Resolution of 2004”, was approved effective December 21, 2004.

## *Subchapter I-A. General Provisions.*

### **§ 47-2851.01. Definitions.**

For the purposes of this subchapter, the term:

(1) “Basic business license” means the single document designed for public display issued by the business license center that certifies District agency license approval and that incorporates the endorsements for individual licenses included in the basic business license system that the District requires for any person subject to this subchapter. The term “basic business license” shall include a master business license issued prior to the effective date of the Streamlining Regulation Emergency Act of 2003, passed on an emergency basis on July 8, 2003 (Enrolled version of Bill 15-317) [August 11, 2003].

(1A) “Basic business license application” means a document incorporating pertinent data from existing applications for licenses covered under this subchapter.

(1B)(A) “Business” means any trade, profession, or activity which provides, or holds itself out to provide, goods or services to the general public or to any portion of the general public, for hire or compensation in the District of Columbia[.]

(B) “Business” shall not include the following:

- (i) The activities of any political subdivision, or of any authority created and organized under and pursuant to law of the District;
- (ii) The activities of any compact entered into by the District with any state or political subdivision of a state; or
- (iii) Any employment for wages or salary.

(2) “Business License Center” means the business registration and licensing center established by this subchapter and located in and under the administrative control of the Department of Consumer and Regulatory Affairs.

(3) “Department” means the Department of Consumer and Regulatory Affairs.



(4) “Director” means the Director of the Department of Consumer and Regulatory Affairs.

(5) “License” means the whole or part of any agency permit, license, certificate, approval, registration, charter, or any form or permission required by law, including agency rule, to engage in any activity.

(5A) “License information packet” means a collection of information about licensing requirements and application procedures custom-assembled for each request.

(6) Repealed.

(7) Repealed.

(8) “Person” means any individual, sole proprietorship, partnership, association, cooperative, corporation, nonprofit organization, and any other organization required to obtain one or more licenses from the District or any of its agencies.

(9) “Regulation” means any licensing or other governmental or statutory requirements pertaining to business or professional activities.

(10) “Regulatory agency” means any District agency, board, commission, or division which regulates one or more professions, occupations, industries, businesses, or activities.

(11) “Renewal application” means a document used to collect pertinent data for renewal of licenses covered under this subchapter.

(12) “System” means the mechanism by which basic business licenses are issued and renewed, license and regulatory information is disseminated, and account data is exchanged by the agencies.

(Apr. 29, 1998, D.C. Law 12-86, § 101(b), 45 DCR 1172; Apr. 20, 1999, D.C. Law 12-261, § 2002(b), (c), 46 DCR 3142; Aug. 11, 2003, D.C. Law 15-38, § 2(c), 50 DCR 6913; Oct. 28, 2003, D.C. Law 15-38, § 2(c), 50 DCR 6913; Apr. 13, 2005, D.C. Law 15-354, § 73(l)(5), 52 DCR 2638.)

**Section references.** — This section is referred to in §§ 3-405, 7-2805, 28-4003, 31-1103, 31-1802, 31-3106, 31-4102, 31-5201, 32-402, 38-1401, 44-202, 44-205, 44-502, 44-504, 44-506, 44-1204, 47-2404, 47-2603, 47-2701, 47-2808, 47-2809, 47-2811, 47-2814, 47-2815, 47-2817, 47-2818, 47-2820, 47-2821, 47-2823, 47-2824, 47-2825, 47-2826, 47-2827, 47-2828, 47-2829, 47-2830, 47-2832, 47-2832.01, 47-2834, 47-2835, 47-2836, 47-2837, 47-2838, 47-2839, 47-2842, 47-2855.01, 48-603, 48-703, 48-903.03, and 50-319.

**Prior Codifications.** — 1981 Ed., § 47-2851.1.

**Effect of amendments.** — D.C. Law 15-38, added new par. (1); added par. (1A); redesignated existing par. (1)(A) as par. (1B)(A); in redesignated par. (1B)(A), substituted “in the District of Columbia.” for “, and which pays, or is subject to the payment of, taxes on earnings, or fees in lieu of taxes, to the District of Columbia, or which qualifies for tax-exempt status under District law.”; repealed pars. (6) and (7); in par. 8, deleted “to register with the District to

do business in the District and”; and, in par. (12), substituted “basic” for “master”.

D.C. Law 15-354, in par. (1B), validated a previously made technical correction.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2 of Religious Organization Exemption Amendment Temporary Act of 2002 (D.C. Law 14-216, March 25, 2002, law notification 50 DCR 2729).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2 of Religious Organization Congressional Review Emergency Act of 2002 (D.C. Act 14-535, December 2, 2002, 49 DCR 11645).

For temporary (90 day) amendment of section, see § 2 of Religious Organization Exemption Emergency Act of 2002 (D.C. Act 14-415, July 17, 2002, 49 DCR 7382).

For temporary (90 day) amendment of section, see § 2 of Religious Organization Exemption Congressional Review Emergency Act of 2003 (D.C. Act 15-45, March 24, 2003, 50 DCR 2812).

For temporary (90 day) amendment of section, see § 2(c) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August

**Legislative history of Law 12-86.** — Law 12-86, the “Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-458, which was referred to the Committee on Public Works and the Environment and the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 19, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 21, 1998, it was assigned Act No. 12-256 and transmitted to both Houses of Congress for its review. D.C. Law 12-86 became effective on April 29, 1998.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

**Editor’s notes.** — Section 4 of Law 15-38 provided: “Within 16 months of the effective date of this act, the Mayor shall provide the Council with a 12-month report on the effect of this act on the regulatory, economic development, and consumer protection operations of the District of Columbia, with recommendations for modification to the District of Columbia’s regulatory framework, as warranted.”

## § 47-2851.02. License required.

(a) A person which is required under law to obtain a license issued in the form of an endorsement to engage in a business in the District of Columbia shall not engage in such business in the District of Columbia without having first obtained a basic business license and any necessary endorsements in accordance with this subchapter.

(b) A license shall be required for each business location.

(c) A person issued a license under this subchapter shall not willfully allow any other person required to obtain a separate license to operate under his or her license.

(d) Licenses granted under this subchapter may be assigned or transferred upon approval by the Department and payment of the applicable fee.

(Apr. 29, 1998, D.C. Law 12-86, § 101(b), 45 DCR 1172; Apr. 20, 1999, D.C. Law 12-261, § 2002(b), (d), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 2(d), 50 DCR 6913.)

**Prior Codifications.** — 1981 Ed., § 47-2851.2.

**Effect of amendments.** — D.C. Law 15-38 rewrote the section.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(d) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 12-86.** — For

legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 47-2851.01.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

## CASE NOTES

### ANALYSIS

Engaging in sales.

Implied consent.

Weight and sufficiency of evidence.

### Engaging in sales.

Carpenter engaged in home improvement

sales without basic business license without general services and repair license endorsement for home improvement salesperson when he entered into contract with client in Maryland for home improvement services to be performed on property located in District of Columbia. *Charlery v. D.C. Dep’t of Consumer &*



Regulatory Affairs, 970 A.2d 280, 2009 D.C. App. LEXIS 72 (2009).

**Implied consent.**

Issue whether carpenter engaged in home improvement services after date he executed contract with client for remodeling property, which was date noted in notice of infraction as date he allegedly performed home improvement services without license, was tried by consent, where carpenter and client both presented evidence that carpenter performed home improvement services on property at some time after he had executed agreement for improvements, during which time he did not have basic business license with general services endorsement for home improvement contractor. *Charlery v. D.C. Dep't of Consumer & Regulatory Affairs*, 970 A.2d 280, 2009 D.C. App. LEXIS 72 (2009).

**Weight and sufficiency of evidence.**

Substantial evidence supported administra-

tive law judge's determination that carpenter performed home improvement services on client's property during period of time that he did not have basic business license with general services endorsement for home improvement contractor; carpenter testified that, "in working for [client], some problems occurred where he had to do more work and charge her more money," and client testified that work stopped by time she informed carpenter about filing complaint with Department of Consumer and Regulatory Affairs about lack of license and that carpenter had informed her he needed more money to finish remodeling project. *Charlery v. D.C. Dep't of Consumer & Regulatory Affairs*, 970 A.2d 280, 2009 D.C. App. LEXIS 72 (2009).

## § 47-2851.03. Endorsement categories; exemptions.

(a) Endorsements to a basic business license shall be issued in the following license endorsement categories:

- (1) Repealed.
- (2) Educational Services;
- (3) Entertainment;
- (4) Environmental Materials;
- (5) Financial Services;
- (6)(A) Housing: Transient; and  
(B) Housing: Residential;
- (7) Inspected Sales and Services;
- (8) Manufacturing;
- (9) Motor Vehicle Sales, Service, and Repair;
- (10)(A) Public Health: Health Care Facility;  
(B) Public Health: Human Services Facility;  
(C) Public Health: Child Health and Welfare;  
(D) Public Health: Public Accommodations;  
(E) Public Health: Pharmacy and Pharmacology;  
(F) Public Health: Funeral Establishment;  
(G) Public Health: Radioactive Materials;  
(H) Public Health: Biohazard;  
(I) Public Health: Food Establishment Wholesale; and  
(J) Public Health: Food Establishment Retail;
- (11) Public Safety;
- (12) Employment Services;
- (13) General Sales;
- (14) General Services and Repair; and
- (15) General Business.

(b) All Class A or Class B license endorsements to master business licenses issued by the Department prior to the effective date of the Streamlining

Regulation Emergency Act of 2003, passed on an emergency basis on July 8, 2003 (Enrolled version of Bill 15-317) [August 11, 2003], are hereby redesignated as license endorsements, without designation of class, to a basic business license. Nothing in the foregoing shall be read as eliminating the criteria, established either by rule or statute, that govern the awarding of any license endorsement affected by this section.

(c) The Department shall maintain and periodically update a roster of all businesses which have been issued a basic business license, indicating the license endorsements appended to each basic business license.

(d) The following licenses shall not be a part of the basic business license system and shall be regulated by the Department of Health:

- (1) Dog-Spayed; and
- (2) Dog-Unspayed.

(Apr. 29, 1998, D.C. Law 12-86, § 101(b), 45 DCR 1172; Apr. 20, 1999, D.C. Law 12-261, § 2002(e), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 2(e), 50 DCR 6913; Sept. 30, 2004, D.C. Law 15-187, § 302(b), 51 DCR 6525.)

**Prior Codifications.** — 1981 Ed., § 47-2851.3.

**Effect of amendments.** — D.C. Law 15-38 rewrote the section.

D.C. Law 15-187 repealed par. (1) of subsec. (a) which had read as follows: "(1) Alcoholic beverages, except that a basic business license bearing an Alcoholic Beverages endorsement shall also indicate the class of endorsement applicable for the licensed business;"

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 116(l) of Mental Health Service Delivery Reform Congressional Review Emergency Act of 2001 (D.C. Act 14-144, October 23, 2001, 48 DCR 9947).

For temporary (90 day) amendment of sec-

tion, see § 2(e) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 12-86.** — For legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 47-2851.01.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

**Legislative history of Law 15-187.** — For Law 15-187, see notes following § 47-2820.

## § 47-2851.03a. Existing licenses eliminated.

(a) Repealed.

(b)(1) The following licenses are eliminated as separate license categories:

- (A) Educational and Cultural Institutions;
- (B) Institutions of Learning;
- (C) Medical and Dental Colleges;
- (D) Post-Secondary Institutions; and
- (E) Veterans Training.

(2) Businesses meeting the criteria established by law or regulation for the establishments listed in paragraph (1) of this subsection shall receive an Educational Services license endorsement.

(c)(1) The following licenses are eliminated as separate license categories:

- (A) Athletic Exhibition;
- (B) Billiard Parlor;
- (C) Bowling Alley;
- (D) Carnival (including street festivals);
- (E) Circus;



- (F) Mechanical Amusement;
- (G) Moving Picture Theater;
- (H) Public Hall;
- (I) Business Street Photographer;
- (J) Skating Rinks;
- (K) Special Events; and
- (L) Theater (live).

(2) Businesses meeting the criteria established by law or regulation for the establishments listed in paragraph (1) of this subsection shall receive an Entertainment license endorsement.

(d)(1) The following licenses are eliminated as separate license categories, except that where special endorsements or permits are required for hazardous waste treatment or asbestos waste abatement, these special endorsements or permits shall be obtained separately:

- (A) Asbestos Abatement Business;
- (B) Bulk Fuel Metering;
- (C) Bulk Fuel Storage Plant;
- (D) Bulk Fuel Above Ground Tank;
- (E) Dry Cleaner;
- (F) Explosives;
- (G) Fireworks Sales;
- (H) Gasoline Dealer;
- (I) Hazardous Waste Management;
- (J) Kerosene;
- (K) Pesticide Applicator;
- (L) Pesticide Operator;
- (M) Pyroxylin;
- (N) Restricted Use Pesticide Dealer;
- (O) Solid Waste Collectors;
- (P) Solid Waste Handling Facilities;
- (Q) Solid Waste Vehicles;
- (R) Solvent Sales; and
- (S) Varsol Sales.

(2) Businesses meeting the criteria established by law or regulation for the establishments listed in paragraph (1) of this subsection shall receive an Environmental Materials license endorsement.

(e)(1) The following licenses are eliminated as separate license categories:

- (A) Check Sellers;
- (B) Consumer Credit Service Organization;
- (C) Fraternal Benefit Associations;
- (D) Insurance Companies;
- (E) Insurance Premium Finance Companies;
- (F) Insurance Rating Organizations;
- (G) Life and Fire Insurance Companies;
- (H) Marine Insurance;
- (I) Money Lender;
- (J) Mortgage Lenders and Brokers;

- (K) Reinsurance Intermediary;
- (L) Risk Retention Group; and
- (M) Sales/Finance Company.

(2) Businesses meeting the criteria established by law or regulation for the establishments listed in paragraph (1) of this subsection shall receive a Financial Services license endorsement.

(f)(1)(A) The following licenses are eliminated as separate license categories:

- (i) Candy Manufacturing;
- (ii) Commercial Merchant Food;
- (iii) Ice Cream Manufacturing; and
- (iv) Marine Product.

(B) Businesses meeting the criteria established by law or regulation for the establishments listed in subparagraph (A) of this paragraph shall receive a Public Health: Food Establishment Retail license endorsement.

(2)(A) The following licenses are eliminated as separate license categories:

- (i) Bakery;
- (ii) Caterers;
- (iii) Delicatessen;
- (iv) Food Product;
- (v) Food Vending Machines;
- (vi) Grocery;
- (vii) Restaurant; and
- (viii) Vendor (A).

(B) Businesses meeting the criteria established by law or regulation for the establishments listed in subparagraph (A) of this paragraph shall receive a Public Health: Food Establishment Retail license endorsement.

(g)(1)(A) The following licenses are eliminated as separate license categories:

- (i) Boarding House;
- (ii) Hotel;
- (iii) Inn and Motel; and
- (iv) Rooming House.

(B) Businesses meeting the criteria established by law or regulation for the establishments listed in subparagraph (A) of this paragraph shall receive a Housing: Transient license endorsement.

(2)(A) The following licenses are eliminated as separate license categories:

- (i) Apartment House; and
- (ii) Cooperative Association.

(B) Businesses meeting the criteria established by law or regulation for the establishments listed in subparagraph (A) of this paragraph shall receive a Housing: Residential License endorsement.

(h)(1) The following licenses are eliminated as separate license categories:

- (A) Ambulance;
- (B) Auctioneer;



- (C) Auctioning;
- (D) Elevators;
- (E) Hearing-aid dealer;
- (F) Horse Drawn Carriage Trade;
- (G) Pawnbrokers;
- (H) Pet shops;
- (I) Secondhand Dealers (A);
- (J) Secondhand Dealers (C);
- (K) Security Alarm Dealers; and
- (L) Taxicab.

(2) Businesses meeting the criteria established by law or regulation for the establishments listed in paragraph (1) of this subsection shall receive an Inspected Sales and Services license endorsement.

(i)(1) Mattress manufacturing license is eliminated as a separate license category.

(2) Businesses meeting the criteria established by law or regulation for the establishment listed in paragraph (1) of this subsection shall receive a Manufacturing license endorsement.

(j)(1) The following licenses are eliminated as separate license categories:

- (A) Auto Repossessor;
- (B) Auto Rental;
- (C) Auto Wash;
- (D) Consumer Goods (Auto Repair);
- (E) Driving School;
- (F) Motor Vehicle Dealer;
- (G) Motor Vehicle Sales; and
- (H) Tow Truck.

(2) Businesses meeting the criteria established by law or regulation for the establishments listed in paragraph (1) of this subsection shall receive a Motor Vehicle Sales, Service, and Repair license endorsement.

(k)(1)(A) The following licenses are eliminated as separate license categories:

- (i) Ambulatory Surgical Treatment Center;
- (ii) Health Provider Plans;
- (iii) Home Health Agency;
- (iv) Hospital-Medical/surgical;
- (v) Hospital-ICU/Coronary;
- (vi) Hospital-OB/GYN;
- (vii) Hospital-Nursery;
- (viii) Hospital-Intermediate Neonatal and Neonatal Intensive Care;
- (ix) Hospital-Pediatrics;
- (x) Hospital-Alcoholism/Chemical Dependency;
- (xi) Hospital-Rehabilitation;
- (xii) Hospital-Psychiatric;
- (xiii) Maternity Center;
- (xiv) Non-hospital Outpatient Facility;
- (xv) Nursing Home;

- (xvi) Renal Dialysis Center; and
- (xvii) Substance Abuse Treatment Center.

(B) Businesses meeting the criteria established by law or regulation for the establishments listed in subparagraph (A) of this paragraph shall receive a Public Health: Health Care Facility license endorsement. For any Hospital-Psychiatric, both this endorsement and the master business license shall be issued by the Department of Mental Health.

(2)(A) The following licenses are eliminated as separate license categories:

- (i) Community Residence Facility; and
- (ii) Group Homes for Mentally Retarded People.

(B) Businesses meeting the criteria established by law or regulation for the establishments listed in subparagraph (A) of this paragraph shall receive a Public Health: Human Services Facility license endorsement.

(3)(A) The following licenses are eliminated as separate license categories:

- (i) Child Development Centers;
- (ii) Child Development Homes;
- (iii) Child-Placing Agencies; and
- (iv) Youth Residential Facilities.

(B) Businesses meeting the criteria established by law or regulation for the establishments listed in subparagraph (A) of this paragraph shall receive a Public Health: Child health and Welfare license endorsement. For Youth Residential Facilities that are Foster Homes or Group Homes, and for Child-Placing Agencies, both this endorsement and the master business license shall be issued by the Child and Family Services Agency.

(4)(A) The following licenses are eliminated as separate license categories:

- (i) Barber Shop;
- (ii) Beauty Shop;
- (iii) Health Spa;
- (iv) Massage Establishment; and
- (v) Swimming Pool.

(B) Businesses meeting the criteria established by law or regulation for the establishments listed in subparagraph (A) of this paragraph shall receive a Public Health: Public Accommodations license endorsement.

(5)(A) The following licenses are eliminated as separate license categories:

- (i) Drug Distributor;
- (ii) Drug Manufacturer;
- (iii) Patent Medicine; and
- (iv) Pharmacy.

(B) Businesses meeting the criteria established by law or regulation for the establishments listed in subparagraph (A) of this paragraph shall receive a Public Health: Pharmacy and Pharmaceuticals license endorsement.

(6)(A) The funeral services establishment license is eliminated as a separate license category.



(B) Businesses meeting the criteria established by law or regulation for the establishment listed in subparagraph (A) of this paragraph shall receive a Public Health: Funeral Establishments license endorsement.

(7)(A) The following licenses are eliminated as separate license categories:

- (i) Installer of Radioactive Equipment;
- (ii) Low Level Radioactive Waste Generator;
- (iii) Repairer of Radioactive Equipment; and
- (iv) Supplier of Radioactive Equipment.

(B) Businesses meeting the criteria established by law or regulation for the establishments listed in subparagraph (A) of this paragraph shall receive a Public Health: Radioactive Equipment license endorsement.

(8)(A) The following licenses are eliminated as separate license categories:

- (i) Clinical Laboratory; and
- (ii) Physician Office Laboratory.

(B) Businesses meeting the criteria established by law or regulation for the establishments listed in subparagraph (A) of this paragraph shall receive a Public Health: Laboratory license endorsement.

(1)(1) The following licenses are eliminated as separate license categories:

- (A) Dealers in Dangerous Weapons;
- (B) Firearms Dealer;
- (C) Private Detective Agencies; and
- (D) Retail Weapons Dealer.

(2) Businesses meeting the criteria established by law or regulation for the establishments listed in paragraph (1) of this subsection shall receive a Public Safety license endorsement.

(m)(1) The following licenses are eliminated as separate license categories:

- (A) Employment Agency;
- (B) Employer Paid Personnel Service; and
- (C) Employment Counseling.

(2) Businesses meeting the criteria established by law or regulation for the following establishments shall receive an Employment Services license endorsement.

(n)(1) The following licenses are eliminated as separate license categories:

- (A) Barber Chair;
- (B) Beauty Booth;
- (C) Bingo Suppliers;
- (D) Cigarette Sales Retail;
- (E) Cigarette Sales Wholesale;
- (F) Mattress Sales;
- (G) Second Hand Dealers (B);
- (H) Solicitor;
- (I) Vendor (B); and
- (J) Vendor (D).

(2) Businesses meeting the criteria established by law or regulation for the establishments listed in paragraph (1) of this subsection shall receive a General Sales license endorsement.

(o)(1) The following licenses are eliminated as separate license categories:

- (A) Consumer Goods (Electronic Repair);
- (B) Dry Cleaner;
- (C) Home Improvement;
- (D) Moving of Household Goods;
- (E) Outdoor Signs;
- (F) Parking Establishment;
- (G) Power Laundry;
- (H) Tour Guide (A); and
- (I) Tour Guide (B).

(2) Businesses meeting the criteria established by law or regulation for the establishments listed in paragraph (1) of this subsection shall receive a General Services and Repair license endorsement.

(p)(1) The following licenses are eliminated as separate license categories:

- (A) Charitable Solicitation; and
- (B) Cooperative Associations (Non-residential).

(2) Businesses meeting the criteria established by law or regulation for these establishments shall receive a General Business license endorsement.

(q) The following licenses are hereby eliminated:

- (1) Bottling Establishment;
- (2) Close Out Sale;
- (3) Coal Dealer;
- (4) Elevator Operator;
- (5) Job Listing;
- (6) Food Handlers;
- (7) Cigarette Vending Machine;
- (8) Laundry (Hand/Ironing);
- (9) Livery;
- (10) Medium;
- (11) Moving Pictures, Film Storage;
- (12) Public Scale;
- (13) Shooting Gallery;
- (14) Slot Weight Machine;
- (15) Street Photographer;
- (16) Rental Housing Locator;
- (17) Abattoirs or Slaughterhouse; and
- (18) Money Lender (B).

(Apr. 20, 1999, D.C. Law 12-261, § 2002(f), 46 DCR 3142; Apr. 4, 2001, D.C. Law 13-277, § 3(e), 48 DCR 2043; Dec. 18, 2001, D.C. Law 14-56, § 116(l), 48 DCR 7674; Mar. 13, 2004, D.C. Law 15-105, § 12(f), 51 DCR 881; Sept. 30, 2004, D.C. Law 15-187, § 302(c), 51 DCR 6525; Apr. 13, 2005, D.C. Law 15-354, § 85(b), 52 DCR 2638.)

**Prior Codifications.** — 1981 Ed., § 47-2851.3a.

**Effect of amendments.** — D.C. Law 13-277, in subsec. (k)(3)(B), added the second sentence.

D.C. Law 14-56, in subsec., (k)(1)(B), added the last sentence.

D.C. Law 15-105, in subsec. (f), validated a previously made technical correction.

D.C. Law 15-187 repealed subsec. (a).



D.C. Law 15-354, in subsec. (f), validated a previously made technical correction.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 16(l) of Department of Mental Health Establishment Temporary Amendment Act of 2001 (D.C. Law 14-51, October 30, 2001, law notification 49 DCR 352).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 16(l) of Department of Mental Health Establishment Emergency Amendment Act of 2001 (D.C. Act 14-55, May 2, 2001, 48 DCR 4390).

For temporary (90 day) amendment of section, see § 16(l) of Department of Mental Health Establishment Congressional Review Emergency Amendment Act of 2001 (D.C. Act 14-101, July 23, 2001, 48 DCR 7123).

For temporary (90 day) amendment of section, see § 116(l) of Mental Health Service Delivery Reform Congressional Review Emergency Act of 2001 (D.C. Act 14-144, October 23, 2001, 48 DCR 9947).

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 13-277.** — Law 13-277, the “Child and Family Services Agency Establishment Amendment Act of 2000”, was

introduced in Council and assigned Bill No. 13-796, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on December 5, 2000, and December 19, 2000, respectively. Signed by the Mayor on January 24, 2001, it was assigned Act No. 13-590 and transmitted to both Houses of Congress for its review. D.C. Law 13-277 became effective on April 4, 2001.

**Legislative history of Law 14-56.** — Law 14-56, the “Mental Health Service Delivery Reform Act of 2001”, was introduced in Council and assigned Bill No. 14-136, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on June 26, 2001, and July 10, 2001, respectively. Signed by the Mayor on July 24, 2001, it was assigned Act No. 14-119 and transmitted to both Houses of Congress for its review. D.C. Law 14-56 became effective on December 18, 2001.

**Legislative history of Law 15-105.** — For Law 15-105, see notes following § 47-902.

**Legislative history of Law 15-187.** — For Law 15-187, see notes following § 47-2820.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-304.03.

**Short title.** — Short title of title II of Law 12-261: Section 2001 of D.C. Law 12-261 provided that title II of the act may be cited as the Business Regulatory Reform Act of 1998.

## § 47-2851.03b. Unique identifying number.

To the extent feasible, and dependent on the available technology needed for implementation, each business licensed pursuant to this subchapter shall have a unique identifying number that shall be used for all official purposes, including taxation.

(Apr. 20, 1999, D.C. Law 12-261, § 2002(f), 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2851.3b.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Short title.** — Short title of title II of Law 12-261: See Historical and Statutory Notes following § 47-2851.03a.

## § 47-2851.03c. Agencies’ power to inspect and revoke licensure.

Nothing in this subchapter shall be construed as limiting or reassigning any District agency’s power to inspect for compliance or to revoke licensure. Agencies of the District government responsible for the issuance of license endorsements shall revoke, deny, or suspend any license endorsements and issue fines as required by statute or regulation.

(Apr. 20, 1999, D.C. Law 12-261, § 2002(f), 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2851.3c.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Short title.** — Short title of title II of Law 12-261: See Historical and Statutory Notes following § 47-2851.03a.

## § 47-2851.03d. General Business License and General Contractor/Construction Manager License.

(a) A General Business License shall be required for all businesses engaging in any business transaction in the District that have a business tax identification number and who are not otherwise required to obtain an endorsement under a license endorsement category under this chapter. If a business entity is comprised of principals who are required to maintain licenses granted or regulated by a local, state, or national certification board or body, the entity and its licensed principals shall not be required to obtain a General Business License. A biennial fee of \$200 shall be charged for the General Business License.

(b) A General Contractor/Construction Manager License shall be required for individuals or businesses engaged in general contracting or construction management. A biennial fee of \$500 shall be charged for the license. The Mayor may establish, by rule, bond requirements for general contractors and construction managers as a condition for issuance of the General Contractor/Construction Manager License.

(c) The Mayor may adjust, by rule, the license fees established in subsections (a) and (b) of this section.

(d) A license issued pursuant to this section shall be issued as a General Business endorsement to a basic business license.

(Aug. 16, 2008, D.C. Law 17-219, § 2007(b), 55 DCR 7598.)

**Legislative history of Law 17-219.** — For Law 17-219, see notes following § 2-218.75.

D.C. Law 17-219 provided that subtitle C of title II of the act may be cited as the “Business Licensing Processing Adjustment Act of 2008”.

**Short title.** — Short title: Section 2006 of

## § 47-2851.04. License application and fees.

(a) Any person requiring a license in accordance with this subchapter shall file an application for a basic business license with the business license center, as provided in this section, and shall pay the required fee or fees. As part of his or her application, he or she shall provide a valid electronic mail address which may be used for the electronic service of process of notices related to the license.

(b) Printed license application forms shall be made available by the business license center as well as electronic forms, which may be downloaded by computer.

(c)(1)(A) Except for such fees as are established by this subchapter, the Director shall by regulation establish fees for the issuance, reissuance, and transfer or reinstatement of all business licenses and endorsements, provided, however, that any fee required by any law or regulation in force as of the



effective date of this subchapter shall remain in effect until changed in accordance with this section.

(B) The Director, pursuant to subchapter I of Chapter 5 of Title 2, may revise such fees as are established by this subchapter. The proposed rules issued pursuant to this subparagraph shall be submitted to the Council for a 30-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 30-day review period, the proposed rules shall be deemed approved.

(2) The fees established pursuant to paragraph (1) of this subsection may vary according to the class of license and the particular kind of business being licensed and shall be reasonably related to the cost to the District of investigating, inspecting, and issuing the licenses.

(d)(1) All fees collected pursuant to this section shall be deposited in a special account and used only to defray the costs of licensing and license enforcement, including salaries, staff training, equipment, records, and computers.

(2) The Department shall not spend more for issuing and enforcing the provisions of this subchapter than has been collected through license fees, except that surplus funds or deficits occurring in any fiscal year may be carried forward for not more than 3 fiscal years.

(Apr. 29, 1998, D.C. Law 12-86, § 101(b), 45 DCR 1172; Apr. 20, 1999, D.C. Law 12-261, § 2002(b), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 2(f), 50 DCR 6913; Sept. 24, 2010, D.C. Law 18-223, §§ 2030, 2054, 57 DCR 6242.)

**Prior Codifications.** — 1981 Ed., § 47-2851.4.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (a), substituted “basic” for “master”.

D.C. Law 18-223, in subsec. (a), added the second sentence; and, in subsec. (c)(1), designated the existing text as subpar. (A) and added subpar. (B).

**Temporary Amendment of Section.** — Section 210 of D.C. Law 18-222, in subsec. (c)(1), designated the existing text as subpar. (A) and added subpar. (B) to read as follows:

“(B) The Director, pursuant to subchapter I of Chapter 5 of Title 2, may revise such fees as are established by this subchapter. The proposed rules issued pursuant to this subparagraph shall be submitted to the Council for a 90-day period of review, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the proposed rules, in whole or in part, by resolution within this 90-day review period, the proposed rules shall be deemed disapproved.”.

Section 2002(b) of D.C. Law 18-222 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(f) of

Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

For temporary (90 day) amendment of section, see § 210 of Fiscal Year 2010 Balanced Budget Support Emergency Act of 2010 (D.C. Act 18-450, June 28, 2010, 57 DCR 5635).

For temporary (90 day) amendment of section, see § 210 of Fiscal Year 2010 Balanced Budget Support Congressional Review Emergency Act of 2010 (D.C. Act 18-531, August 6, 2010, 57 DCR 8109).

For temporary (90 day) amendment of section, see §§ 2030, 2054 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

**Legislative history of Law 12-86.** — For legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 47-2851.03.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

**Legislative history of Law 18-223.** — For Law 18-223, see notes following § 47-355.05.

§ 47-2851.05. **Business license center.**

(a) There is created the Business License Center (“Center”) within the Department of Consumer and Regulatory Affairs.

(b) The duties of the Center shall include the following:

(1) Developing and administering a computerized “one-stop” basic business license system capable of storing, retrieving, and exchanging license information with due regard to privacy statutes, as well as issuing and renewing basic business licenses in an efficient manner;

(2) Creating a license information service that shall provide to any member of the public, upon request, printed or electronic information detailing requirements to establish or engage in business in the District, including a list of all information, approvals, documents, and payments required for each and every license issued by the District government;

(3) Providing for staggered basic business license renewal, as set forth in § 47-2851.09;

(4) Identifying types of licenses appropriate for inclusion in the basic business license system;

(5) Recommending, in reports to the Mayor and the Council, the elimination, consolidation, or other modification of duplicative, ineffective, or inefficient licensing or inspection requirements;

(6) Incorporating licenses into the basic business license system;

(7) Providing a license information service to prepare and distribute license information packets that detail requirements for establishing or engaging in business in the District of Columbia; and

(8) Maintaining a registry of fictitious names or trade names as defined in § 47-2852.02, indicating the party or parties doing business under those names.

(c) The Director shall establish the position of Deputy Director of the Department who shall be responsible for the operation of the Center.

(d) The Director shall promulgate such regulations as may be necessary to effectuate the purposes of this subchapter.

(Apr. 29, 1998, D.C. Law 12-86, § 101(b), 45 DCR 1172; Apr. 20, 1999, D.C. Law 12-261, § 2002(b), (g), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 2(g), 50 DCR 6913.)

**Prior Codifications.** — 1981 Ed., § 47-2851.5.

**Effect of amendments.** — D.C. Law 15-38, in pars. (1), (3), (4), and (6) of subsec. (b), substituted “basic” for “master” throughout.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(g) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 12-86.** — For legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 47-2851.01.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

§ 47-2851.06. **Public information.**

(a)(1) The Center shall compile information regarding the regulatory pro-



grams associated with each of the licenses obtainable under the basic business license system.

(2) This information shall include a listing of all laws and administrative rules that require the issuance of licenses.

(b)(1) The Center shall provide the information required by this section to any person requesting it.

(2) Materials used by the Center to describe the services provided by the Center shall indicate that this information is available upon request.

(c) Notwithstanding any other provision of District law, information submitted to the Center under this subchapter shall not be made available to the public; provided, that a person may be furnished with such information for one registrant based upon the submission of either the name or address of the registrant; provided further, that the person shall be limited to one request per day.

(d) Federal Employer Identification numbers and social security numbers shall not be released to the public, except if:

- (1) Requested by a law enforcement agency; or
- (2) Directed by a court order.

(Apr. 29, 1998, D.C. Law 12-86, § 101(b), 45 DCR 1172; Apr. 20, 1999, D.C. Law 12-261, § 2002(b), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 2(h), 50 DCR 6913.)

**Prior Codifications.** — 1981 Ed., § 47-2851.6.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (a)(1), substituted “basic” for “master”; and added subsecs. (c) and (d).

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2(a) of Master Business Registration Temporary Act of 2003 (D.C. Law 14-302, May 3, 2003, law notification 50 DCR 3776).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(a) of Master Business Registration Delay Emergency Act of 2002 (D.C. Act 14-595, January 7, 2003, 50 DCR 647).

For temporary (90 day) amendment of section, see § 2(a) of Master Business Registration Delay Congressional Review Emergency Act of 2003 (D.C. Act 15-73, April 16, 2003, 50 DCR 3616).

For temporary (90 day) amendment of section, see § 2(a) of Master Business Registration Second Delay Emergency Act of 2003 (D.C. Act 15-83, May 19, 2003, 50 DCR 4100).

For temporary (90 day) amendment of section, see § 2(h) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 12-86.** — For legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 47-2851.01.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

## § 47-2851.07. Issuance of licenses.

(a) Any person who is required to obtain a license that has been incorporated into the system shall submit a basic business license application, along with proof of Workers’ Compensation insurance coverage, or an exemption therefrom, to the Center requesting the issuance of the license. The basic business license application form shall contain, in consolidated form, all information necessary for the issuance of licenses.

(b) The applicant shall include with the application the sum of all fees and

deposits required for the basic business license and any necessary or requested individual license endorsements.

(c)(1) Irrespective of any authority delegated to the Center to implement the provisions of this subchapter, the authority for determining eligibility and fitness for the issuance and renewal of any requested license that requires a pre-licensing or renewal investigation, inspection, testing, or other judgmental review by the regulatory agency legally authorized to make such determination shall remain with that agency.

(2) Repealed.

(d)(1) Upon receipt of the application and proper fee payment for any license for which issuance is subject to regulatory agency action under subsection (c) of this section, the Center shall immediately notify the relevant regulatory agency of the license requested by the applicant.

(2) Each regulatory agency shall advise the Center within 30 days after receiving the notice, or such other period as is established by law the following:

(A) That the agency approves the issuance of the requested license and will advise the applicant of any specific conditions required for issuing the license;

(B) That the agency denies the issuance of the license and gives the applicant reasons for the denial; or

(C) That no action has been taken on the application and the Department shall provide good and sufficient reasons for the delay and an estimate of when the action will be taken.

(e)(1) The Center shall issue a basic business license endorsed for all the approved licenses to the applicant and advise the applicant of the status of other requested licenses.

(2) It is the responsibility of the applicant to contest the decision regarding conditions imposed or licenses denied through the normal process established by statute or by regulation.

(f) Regulatory agencies shall be provided information from the basic business license application for their licensing and regulatory functions.

(Apr. 29, 1998, D.C. Law 12-86, § 101(b), 45 DCR 1172; Apr. 20, 1999, D.C. Law 12-261, § 2002(b), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 2(i), 50 DCR 6913; Dec. 7, 2004, D.C. Law 15-205, § 1104, 51 DCR 8441.)

**Prior Codifications.** — 1981 Ed., § 47-2851.7.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (a), substituted “basic business license application” for “master application” in two places; in subsecs. (b) and (e)(1), substituted “basic” for “master”; repealed subsec. (c)(2); and in subsec. (f), substituted “basic business license application” for “master application”. Prior to repeal, subsec. (c)(2) had read as follows: “(2) The Center shall have the authority to issue, without endorsement, a Class B license for which the proper fee payment and a completed application form has been received

and for which no pre-licensing or renewal approval action is required by any regulatory agency.”

D.C. Law 15-205, in subsec. (a), substituted “business license application, along with proof of Workers’ Compensation insurance coverage, or an exemption therefrom, to the Center” for “business license application to the Center”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(i) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

For temporary (90 day) amendment of sec-



tion, see § 1104 of Fiscal Year 2005 Budget Support Emergency Act of 2004 (D.C. Act 15-486, August 2, 2004, 51 DCR 8236).

For temporary (90 day) amendment of section, see § 1104 of Fiscal Year 2005 Budget Support Congressional Review Emergency Act of 2004 (D.C. Act 15-594, October 26, 2004, 51 DCR 11725).

**Legislative history of Law 12-86.** — For legislative history of D.C. Law 12-86, see His-

torical and Statutory Notes following § 47-2851.01.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

**Legislative history of Law 15-205.** — For Law 15-205, see notes following § 47-903.

## § 47-2851.08. Basic business license application fees; renewal fees.

(a)(1) The Center shall collect a fee of \$70 for each basic business license it issues, plus \$25 for each endorsement added to the basic business license.

(2) The entire basic business license application fee shall be deposited in the Basic Business License Fund established by § 47-2851.13.

(b)(1) The Center shall collect a fee of \$70 on each renewal license it issues, plus \$25 for each endorsement added to the basic business license.

(2) The entire application renewal fee shall be deposited in the Basic Business License Fund established by § 47-2851.13.

(c) The fees assessed pursuant to this section shall be in addition to any fees required by law or by statute for the issuance of license endorsements.

(d) Nothing in this section shall be read as reassigning license endorsement fees to the General Fund of the District of Columbia where the Mayor has determined or where the law requires that those fees should go to a dedicated fund to benefit a particular agency or department of the District government.

(Apr. 29, 1998, D.C. Law 12-86, § 101(b), 45 DCR 1172; Apr. 20, 1999, D.C. Law 12-261, § 2002(b), (h), 46 DCR 3142; June 5, 2003, D.C. Law 14-307, § 1607, 49 DCR 11664; Oct. 28, 2003, D.C. Law 15-38, § 2(j), 50 DCR 6913; Apr. 13, 2005, D.C. Law 15-354, § 73(l)(6), 52 DCR 2638; Aug. 16, 2008, D.C. Law 17-219, § 2007(c), 55 DCR 7598.)

**Prior Codifications.** — 1981 Ed., § 47-2851.8.

**Effect of amendments.** — D.C. Law 14-307 rewrote subsec. (a)(1) which had read as follows: “(a)(1) The Center shall collect a fee of \$25 for each master business license it issues, plus \$5 for each endorsement added to the master business license.”

D.C. Law 15-38, in subsec. (a)(1), substituted “basic” for “master” wherever appearing; in subsecs. (a)(2) and (b)(2), substituted “Basic” for “Master”; in subsec. (c), deleted “inspected or uninspected” preceding “license endorsements”; and in subsec. (d), substituted “General Fund of the District of Columbia” for “general fund” and “government” for “Government”.

D.C. Law 15-354, in the section heading and subsecs. (a)(2) and (b)(2), validated previously made technical corrections.

D.C. Law 17-219 rewrote subsecs. (a)(1) and (b)(1).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 1607 of Fiscal Year 2003 Budget Support Amendment Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) amendment of section, see § 1607 of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of section, see § 1607 of Fiscal Year 2003 Budget Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

For temporary (90 day) amendment of section, see § 2(j) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August

**Legislative history of Law 12-86.** — For legislative history of D.C. Law 12-86, see His-

torical and Statutory Notes following § 47-2851.01.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 14-307.** — For Law 14-307, see notes following § 47-903.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

**Legislative history of Law 17-219.** — For Law 17-219, see notes following § 47-318.05a.

## § 47-2851.09. License expiration date.

(a)(1) The Center shall assign an expiration date for each basic business license. All renewable licenses endorsed on that basic business license shall expire on that date.

(2) Notwithstanding any other provision of law, every license issued in accordance with this subchapter shall be valid for 2 years from the date of issue, unless earlier revoked or voluntarily relinquished, and licenses shall be issued on a staggered basis, using as the renewal date the date of incorporation, if the business is incorporated, the date of organization, if the business is unincorporated, or the birth date of the principal if the business is a sole proprietorship.

(3) Valid licenses that for any reason expire on a date other than a date determined in accordance with paragraph (2) of this subsection shall be extended automatically until the next anniversary of the date determined in accordance with paragraph (2) of this subsection.

(b) All renewable licenses endorsed on a basic business license shall be renewed by the Center under conditions originally imposed unless a regulatory agency advises the Center of conditions or denials to be imposed before the endorsement is renewed.

(Apr. 29, 1998, D.C. Law 12-86, § 101(b), 45 DCR 1172; Apr. 20, 1999, D.C. Law 12-261, § 2002(b), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 2(k), 50 DCR 6913.)

**Prior Codifications.** — 1981 Ed., § 47-2851.9.

**Effect of amendments.** — D.C. Law 15-38 substituted “basic” for “master” throughout the section.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(k) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 12-86.** — For legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 47-2851.01.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

## § 47-2851.10. Lapsed and reinstated licenses.

(a) The Department may, by electronic mail or other methods of communication, send notice of impending license expiration, an application for renewal, and a statement of the applicable renewal fee to each licensee within 30 days prior to the expiration date at the mailing address or electronic mail address shown on the Department’s records for the licensee. It shall be the responsi-



bility of the licensee to update the address information maintained by the Department.

(b)(1) A license that has not been revoked, suspended, or voluntarily relinquished and that has not been renewed by its expiration date shall be deemed to be lapsed. A licensee may apply for renewal of the license at any time within 30 days after the lapsing of the license and the license shall be reinstated upon the payment of a penalty of \$250, plus all other applicable fees or penalties provided by law.

(2) A license that is lapsed for more than 30 days shall be deemed to be expired. A licensee whose license is lapsed for more than 30 days, but less than 6 months, after the lapsing of the license may apply for renewal of the license and the license shall be reinstated upon the payment of a penalty of \$500, plus all other applicable fees and penalties provided by law.

(c)(1) Repealed.

(2) A licensee whose license has been expired for at least 6 months shall be treated as a new applicant and not as an applicant for renewal, unless otherwise provided by applicable law. If the new applicant conducted business during the 6 months after the expiration date of the license without complying with the renewal procedures pursuant to this section, the applicant shall be deemed to have conducted business without a license and shall be liable for any and all fees and fines applicable to conducting business without a license. A new application for a license shall not be processed until all applicable fines and fees have been paid.

(d) Any person who has obtained a license or renewed a license under false pretenses, including paying fees with a bad check, stating falsely that corporate status is current, or stating falsely that all taxes owed the District have been paid, shall be notified immediately of the problem and given 30 days from the date of notice to provide proof of having cured the problem. If the problem has not been corrected 30 days from the date of notification, the license shall be revoked and may only be reinstated upon proof of correction and payment of a \$500 fine in addition to any other fees and fines required by this subchapter and all other relevant District laws and regulations.

(Apr. 29, 1998, D.C. Law 12-86, § 101(b), 45 DCR 1172; Apr. 20, 1999, D.C. Law 12-261, § 2002(i), 46 DCR 3142; Mar. 3, 2010, D.C. Law 18-111, § 2041(b), 57 DCR 181.)

**Prior Codifications.** — 1981 Ed., § 47-2851.10.

**Effect of amendments.** — D.C. Law 18-111 rewrote subsecs. (a), (b) and (c).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2041(b) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2041(b) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 12-86.** — For legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 47-2851.01.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-305.02.

**Short title.** — Short title: Section 2040 of D.C. Law 18-111 provided that subtitle E of title II of the act may be cited as the “Business Licensing Processing Adjustment Act of 2009”.

**§ 47-2851.11. Denial of master business license.**

(a) The Center shall not issue or renew a basic business license to any person or business entity if:

(1) The person or business does not have a valid tax registration or Certificate of Occupancy, if required;

(2) The person or business is delinquent in taxes, periodic report fees, or penalties owing to the District, is delinquent in service fees owed to the Water and Sewer Authority, or is not validly registered in accordance with District law. The Office of Tax and Revenue and the Water and Sewer Authority shall cooperate with the business license center to determine if taxes, fees, penalties or service fees are owing.

(3) The person or business has been denied any of the necessary endorsements for the type of business for which licensing is sought; or

(4) The person or business has not submitted the sum of all fees and deposits required for the requested individual license endorsements, any outstanding basic business license delinquency fee, or other fees and penalties to be collected through the system.

(b) Nothing in this section shall prevent registration by the District of an employer for the purpose of paying an employee workers' compensation insurance or unemployment insurance benefits.

(Apr. 29, 1998, D.C. Law 12-86, § 101(b), 45 DCR 1172; Apr. 20, 1999, D.C. Law 12-261, § 2002(b), 46 DCR 3142; Oct. 21, 2000, D.C. Law 13-183, § 2(a), 47 DCR 7062; Oct. 28, 2003, D.C. Law 15-38, § 2(l), 50 DCR 6913.)

**Prior Codifications.** — 1981 Ed., § 47-2851.11.

**Effect of amendments.** — D.C. Law 13-183 rewrote subsec. (a)(2) which formerly provided: "The person or business is delinquent in taxes, periodic reports, or penalties owing to the District, or is not validly registered in accordance with District law; the Department of Finance and Revenue shall cooperate with the business license center to determine if such taxes, fees, or penalties are owing."

D.C. Law 15-38, in subsec. (a), substituted "basic" for "master" in the introductory paragraph and in par. (4).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(l) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 12-86.** — For legislative history of D.C. Law 12-86, see His-

torical and Statutory Notes following § 47-2851.01.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 13-183.** — Law 13-183, the "Water and Sewer Authority Collection Enhancement Amendment Act of 2000," was introduced in Council and assigned Bill No. 13-484, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on June 26, 2000, and July 11, 2000, respectively. Signed by the Mayor on August 2, 2000, it was assigned Act No. 13-399 and transmitted to both Houses of Congress for its review. D.C. Law 13-183 became effective on October 21, 2000.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

**§ 47-2851.12. Additional licenses.**

In addition to the licenses processed under the basic business license system that were required prior to the effective date of this subchapter, use of the basic business license system shall be expanded as needed for the processing of additional licenses as provided by District law.



(Apr. 29, 1998, D.C. Law 12-86, § 101(b), 45 DCR 1172; Apr. 20, 1999, D.C. Law 12-261, § 2002(b), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 2(m), 50 DCR 6913.)

**Prior Codifications.** — 1981 Ed., § 47-2851.12.

**Effect of amendments.** — D.C. Law 15-38 substituted “basic” for “master” throughout the section.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(m) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 12-86.** — For legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 47-2851.01.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

## § 47-2851.13. Establishment of Basic Business License Fund; disposition of license fees, penalties, and fines.

(a) There is established the Basic Business License Fund (“Fund”) which shall be classified as a proprietary fund and a type of enterprise fund for the purposes of § 47-373(1). The Fund shall be credited with all fees that are identified in subsection (b) of this section.

(b) All fees collected for the issuance of a basic business license and endorsements, including renewals, late renewal penalties, other penalties, and fines, shall be deposited in the Fund. Half of the total amount of penalties and fines collected as a result of notices of infractions issued for basic business license violations shall also be deposited in the Fund. The entire cost of the basic business licensing system shall be paid from the Fund and no other appropriated funds shall be used for that purpose.

(c) Revenue credited to the Fund shall be expended by the Department as designated by an appropriations act of Congress, for the purposes of maintaining and upgrading the basic business licensing system, including copying fees, automation upgrades, personnel costs, and supplies.

(d)(1) A portion of the increased fees under § 47-2851.03d shall be used to reform and streamline the application and renewal process for licensing under this chapter.

(2) Within 6 months of [August 16, 2008], the Department shall report to the Chairperson of the Council committee with oversight of the Department on the specific steps taken to implement these new processes.

(Apr. 29, 1998, D.C. Law 12-86, § 101(b), 45 DCR 1172; Apr. 20, 1999, D.C. Law 12-261, § 2002(b), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 2(n), 50 DCR 6913; Apr. 13, 2005, D.C. Law 15-354, § 73(1)(7), 52 DCR 2638; Aug. 16, 2008, D.C. Law 17-219, § 2007(d), 55 DCR 7598; Oct. 22, 2009, D.C. Law 18-71, § 12(c)(4), 56 DCR 6619; Mar. 3, 2010, D.C. Law 18-111, § 2041(c), 57 DCR 181.)

**Prior Codifications.** — 1981 Ed., § 47-2851.13.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (a), substituted “Basic” for “Master”

and “proprietary” for “propriety”; and in subsecs. (b) and (c), substituted “basic” for “master” throughout.

D.C. Law 15-354, in the section heading, validated a previously made technical correction.

D.C. Law 17-219 added subsec. (d).

D.C. Law 18-71 rewrote subsec. (b), which had read as follows: “(b) All fees collected for the issuance of a basic business license and endorsements, including renewals and fines, shall be deposited in the Fund by the Treasurer of the District of Columbia. The entire cost of the basic business licensing system shall be paid from the Fund and no other appropriated funds may be used for that purpose.”

D.C. Law 18-111, in the section heading, substituted “license fees, penalties, and fines” for “licensing fees”; and rewrote subsec. (b).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(n) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

For temporary (90 day) amendment of section, see § 2041(c) of Fiscal Year 2010 Budget

Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2041(c) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 12-86.** — For legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 47-2851.01.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

**Legislative history of Law 17-219.** — For Law 17-219, see notes following § 47-318.05a.

**Legislative history of Law 18-71.** — For Law 18-71, see notes following § 47-2002.01.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-305.02.

## § 47-2851.14. Certain professional licenses exempt. [Repealed].

Repealed.

(Apr. 29, 1998, D.C. Law 12-86, § 101(b), 45 DCR 1172; Apr. 20, 1999, D.C. Law 12-261, § 2002(j), 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2851.14.

**Legislative history of Law 12-261.** — For

legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

## § 47-2851.15. Existing licenses or permits.

(a) A license or permit issued by the District which is valid on the effective date of this subchapter need not be registered under the basic business license system until the renewal or expiration date of that license or permit under the law in effect prior to the effective date of this subchapter, unless it has been otherwise revoked or suspended.

(b) Upon the renewal date of the above-referenced license or permit, the applicant shall receive a renewal date in accordance with § 47-2851.09.

(Apr. 29, 1998, D.C. Law 12-86, § 101(b), 45 DCR 1172; Apr. 20, 1999, D.C. Law 12-261, § 2002(b), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 2(o), 50 DCR 6913.)

**Prior Codifications.** — 1981 Ed., § 47-2851.15.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (a), substituted “basic” for “master”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(o) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR



6896).

**Legislative history of Law 12-86.** — For legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 47-2851.01.

**Legislative history of Law 12-261.** — For

legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

## § 47-2851.16. Third party inspections for license endorsements.

(a) The Director shall determine the feasibility of allowing certain businesses the option of obtaining inspections at the applicant's expense by authorized third party inspectors.

(b) The Director shall, whenever feasible, allow businesses required to be inspected pursuant to this subchapter the option of obtaining a third party inspector qualified for such activities by virtue of a certification from a nationally recognized and accredited organization; provided that the third party inspector:

(1) Is hired at the applicant's own expense;

(2) Has obtained a valid District of Columbia license in the relevant area of expertise for which inspection authorization is sought; and

(3) Submits a sworn statement that no conflict of interest will arise with regard to the inspection of the applicant's business.

(c) After conducting an appropriate review, the Director may from time to time authorize, or revoke the authorization of, organizations and individuals to conduct inspections for purposes of obtaining a basic business license or its endorsements under this chapter.

(d) The Center shall make known to any applicant or re-applicant for a basic business license the option of choosing inspection by the District or inspection at the applicant's expense by an approved organization or individual and shall provide, upon request, the names of approved inspectors relevant to the particular basic business license application.

(e) The Department shall accept the findings of the third party inspector, and shall consider third party inspections permitted under this section as proper inspections for the purpose of issuance of a master [basic] business license or endorsement issued pursuant to this chapter.

(f) Persons who avail themselves of the third party inspection option are not entitled to a refund of any portion of the license fee.

(Apr. 29, 1998, D.C. Law 12-86, § 101(b), 45 DCR 1172; Apr. 20, 1999, D.C. Law 12-261, § 2002(k), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 2(p), 50 DCR 6913.)

**Prior Codifications.** — 1981 Ed., § 47-2851.16.

**Effect of amendments.** — D.C. Law 15-38, in the section heading, deleted "Class A" preceding "license" and in subsecs. (c) and (d), substituted "basic" for "master".

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(p) of

Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 12-86.** — For legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 47-2851.01.

**Legislative history of Law 12-261.** — For

legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

### § 47-2851.17. Performance audit.

The Auditor of the District of Columbia shall conduct a performance audit of the basic business licensing program and report to the Council not later than 5 years after April 29, 1998. At a minimum, this study should include an examination of the program cost and effectiveness.

(Apr. 29, 1998, D.C. Law 12-86, § 101(b), 45 DCR 1172; Apr. 20, 1999, D.C. Law 12-261, § 2002(b), 46 DCR 3142; Apr. 20, 1999, D.C. Law 12-264, § 52(t), 46 DCR 2118; Oct. 28, 2003, D.C. Law 15-38, § 2(q), 50 DCR 6913.)

**Prior Codifications.** — 1981 Ed., § 47-2851.17.

**Effect of amendments.** — D.C. Law 15-38 substituted “basic” for “master”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(q) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 12-86.** — For legislative history of D.C. Law 12-86, see Historical and Statutory Notes following § 47-2851.01.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-264.** — For legislative history of D.C. Law 12-264, see Historical and Statutory Notes following § 47-2834.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

### § 47-2851.18. Participation of District agencies.

All departments and agencies of the District of Columbia government are hereby directed to provide full participation and cooperation in the implementation of this subchapter.

(Apr. 20, 1999, D.C. Law 12-261, § 2002(l), 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2851.18.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Short title.** — Short title of title II of D.C. Law 12-261: Section 2001 of D.C. Law 12-261 provided that title II of the act may be cited as the Business Regulatory Reform Act of 1998.

### § 47-2851.19. Amnesty period.

Notwithstanding any provision of this subchapter, any business which was not required under law to obtain a license issued in the form of an endorsement to engage in a business in the District of Columbia and which did not obtain a basic business license prior to July 1, 2003, shall not be subject to any penalty or fine for failure to obtain a basic business license.

(Apr. 20, 1999, D.C. Law 12-261, § 2002(l), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 2(r), 50 DCR 6913.)



**Prior Codifications.** — 1981 Ed., § 47-2851.19.

**Effect of amendments.** — D.C. Law 15-38 rewrote the section.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2(b) of Master Business Registration Temporary Act of 2003 (D.C. Law 14-302, May 3, 2003, law notification 50 DCR 3776).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(b) of Master Business Registration Delay Emergency Act of 2002 (D.C. Act 14-595, January 7, 2003, 50 DCR 647).

For temporary (90 day) amendment of section, see § 2(b) of Master Business Registration Delay Congressional Review Emergency Act of 2003 (D.C. Act 15-73, April 16, 2003, 50 DCR 3616).

For temporary (90 day) amendment of section, see § 2(b) of Master Business Registration Second Delay Emergency Act of 2003 (D.C. Act 15-83, May 19, 2003, 50 DCR 4100).

For temporary (90 day) amendment of section, see § 2(r) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

**References in text.** — The phrase “within 6 months of April 20, 1999,” originally read “within 6 months of the effective date of this section.”

## § 47-2851.20. Authorization of Director to promulgate regulations.

The Director shall have the authority to implement the basic business license system outlined in this subchapter by appropriate regulation.

(Apr. 20, 1999, D.C. Law 12-261, § 2002(l), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 2(s), 50 DCR 6913.)

**Prior Codifications.** — 1981 Ed., § 47-2851.20.

**Effect of amendments.** — D.C. Law 15-38 substituted “basic” for “master”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(s) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

**Short title.** — Short title of title II of D.C. Law 12-261: Section 2001 of D.C. Law 12-261 provided that title II of the act may be cited as the Business Regulatory Reform Act of 1998.

**Delegation of Authority.** — Delegation of Authority Pursuant to D.C. Law 5-84, the District of Columbia Funeral Services Regulatory Act of 1984, see Mayor’s Order 2007-216, October 5, 2007 (55 DCR 149).

## *Subchapter I-B. Non-Health Related Occupations and Professions Licensure.*

### § 47-2853.01. Definitions.

For the purposes of this subchapter:

(1) “Board” means a panel of persons appointed in accordance with this subchapter to define and regulate the scope of practice and qualifications needed to practice particular occupations or professions in the District of Columbia.

(2) “Certificate” means a document issued by the Mayor to a person licensed in accordance with this subchapter certifying that the person has met the eligibility requirements for practicing a specialty established as a subcat-

egory within the scope of the license and is authorized to perform the services of such specialty and to hold himself or herself out to perform such services, except as defined in § 47-2853.47.

(3) “Certify,” “certified” and “certification” means the designation on a certificate issued by the Mayor authorizing a person to practice a specialty within a license category.

(4) “Attorney General for the District of Columbia” means the Attorney General for the District of Columbia of the District of Columbia or designee.

(5) “District” means the District of Columbia.

(6) “License” means a document issued by the Mayor to a person who has met the eligibility standards and other requirements for practicing an occupation or profession regulated by this subchapter and who is therefore authorized to perform the services permitted by law and regulation to be performed by a person holding such a license, and to hold himself or herself out as authorized to perform such services.

(7) “Licensed” means that a person so designated has been granted a license by the Mayor to practice an occupation or profession in the District.

(8) “Registration” or “registered” means the inclusion of a person on a list of persons authorized to offer certain occupational or professional services in the District. “Registration” does not imply that the person has met any formal educational or training requirements or that the person has been examined and found to be competent to provide the services for which he or she has registered.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; Apr. 13, 2005, D.C. Law 15-354, § 73(1)(8), 52 DCR 2638.)

**Prior Codifications.** — 1981 Ed., § 47-2853.1.

**Effect of amendments.** — D.C. Law 15-354 substituted “Attorney General for the District of Columbia” for “Corporation Counsel”.

**Temporary Amendment of Section.** — Section 2(b) of D.C. Law 16-101 added par. (9) which read as follows: “(9) ‘Natural person’ means a human being.”

Section 4(b) of D.C. Law 16-101 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(b) of Non-Health Related Occupations and Profes-

sions Licensure Emergency Act of 2006 (D.C. Act 16-255, January 26, 2006, 53 DCR 763).

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

**Short title.** — Non-Health Related Occupations and Professions Licensure Act of 1998: Section 1001 of D.C. Law 12-261 provided that title I of the act may be cited as the “Non-Health Related Occupations and Professions Licensure Act of 1998.”

## § 47-2853.02. License, certification, and registration criteria.

(a) No person shall practice, attempt to practice, or offer to practice an occupation or profession for which a license, certification, or registration is required under this subchapter without a current valid license, certificate, or registration in accordance with the requirements of this subchapter.

(b) A license, certification, or registration is not required for the practice of



any occupation, trade or profession not covered by this subchapter or Chapter 12 of Title 3.

(c) Nothing in this section shall relieve any person from the obligation to obtain a business license or endorsement or any other license or permit required by District law or regulation.

(d)(1) Licensure shall be required whenever the Mayor has determined that, in order to protect the public, a person who seeks to practice a particular occupation or profession must meet specified educational and training requirements, must demonstrate competency in that occupation or profession through examination or other proof of fitness, or must have a specified amount of experience in order to practice that occupation or profession.

(2) Any person who seeks to practice in an occupation or profession described in paragraph (1) of this subsection shall be required to obtain a license in order to practice the occupation or profession.

(e)(1) Certification shall be required whenever the Mayor has determined that, in order to protect the public, a person who is licensed to practice a particular occupation or profession must meet specified additional educational, training or experience requirements, or must successfully pass additional examination, to qualify for advanced practice or specialization in the licensed occupation or profession.

(2) Any person required to be licensed to practice an occupation or profession under this subchapter shall be required to obtain a certificate attesting to his or her qualifications to practice the occupation or profession at the higher level or in the specialty.

(f) Registration shall be required whenever the Mayor has determined that a person who seeks to practice a particular occupation or profession need not meet specified educational or training requirements nor demonstrate competence, but to protect the public should be identified as a practitioner of that occupation or profession.

(g) Each board established pursuant to § 47-2853.06 shall advise the Mayor as to whether the occupations or professions under its jurisdiction are appropriately regulated by licensure, certification, or registration in accordance with the criteria established in this section.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.2. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-

**Legislative history of Law 12-261.** — For 2801.

### § 47-2853.03. Scope of subchapter.

(a) This subchapter does not limit the right of a person to practice an occupation or profession that he or she is licensed, certified, or registered to practice, except as provided in this subchapter or by any other law or regulation. A person may practice any other occupation or profession for which authorization is not required by law.

(b) Nothing in this subchapter shall be construed to prohibit the practice of an occupation or profession by a person enrolled in a recognized training

program, school, or college as a candidate for a degree or certificate in that occupation or profession, or enrolled in a recognized postgraduate training program, provided that the practice is performed:

- (1) As part of a course of instruction;
- (2) Under the supervision of a person who is either licensed, certified, or registered to practice that occupation or profession in the District or is qualified, according to law, as a teacher of that occupation or profession;
- (3) At a facility operated by the District or federal government, or at a facility deemed appropriate for that purpose by the school, college or training program; and
- (4) In accordance with procedures established by the board charged with the regulation of that occupation or profession.

(c) Nothing in this subchapter shall be construed to prohibit the practice of an occupation or profession by a person who has filed an initial application for licensure or certification and is awaiting action on that initial application, provided that the practice is performed:

- (1) Under the supervision of an appropriate person licensed or certified in accordance with this subchapter;
- (2) At a facility operated by the District or federal government, or other facility appropriate for the services being provided; and
- (3) In accordance with any other requirements established by law or regulation.

(d) Except as expressly provided to the contrary in this subchapter, any person licensed, certified, or registered by any District agency established by any statute amended, repealed, or superseded by this subchapter is considered for all purposes to be licensed, registered, or certified by the appropriate board established under this subchapter for the duration of the term for which the license, certification, or registration was issued, and may renew that authorization in accordance with the appropriate renewal provisions of this subchapter.

(e) Except as provided to the contrary in this subchapter, any person who was originally licensed, certified, or registered under a provision of law that has been repealed by this subchapter is deemed to meet the education and experience requirements for licensure, certification, or registration as if that provision had not been repealed.

(f) The provisions of this subchapter prohibiting the practice of an occupation or profession without a license, certificate, or registration shall not apply to:

- (1) A person employed in the District by the federal government, while he or she is acting in the official discharge of the duties of employment; or
- (2) A person licensed or certified to practice an occupation or profession in a state who is called from that state for consultation in the District, or to give a demonstration or teach a course in the District, provided that the person engages in the consultation or demonstration in affiliation with a comparable licensed person pursuant to this subchapter or teaches at a licensed educational institution approved to offer instruction in the person's field of expertise.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)



**Prior Codifications.** — 1981 Ed., § 47-2853.3.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

## **§ 47-2853.04. Regulated non-health related occupations and professions.**

(a) The following non-health related occupations and professions have been determined to require regulation in order to protect public health, safety or welfare, or to assure the public that persons engaged in such occupations or professions have the specialized skills or training required to perform the services offered:

- (1) Architect;
- (2) Asbestos Worker;
- (3) Attorney;
- (4) Barber;
- (5) Boxer/Wrestler;
- (6) Certified Public Accountant;
- (7) Clinical Laboratory Director;
- (8) Clinical Laboratory Technician;
- (9) Cosmetologist;
- (10) Commercial Driver;
- (11) Commercial Bicycle Operator;
- (12) Electrician;
- (13) Funeral Director;
- (14) Insurance Agent;
- (15) Insurance Broker;
- (16) Interior Designer;
- (17) Investment Advisor;
- (18) Land Surveyor;
- (19) Notary Public;
- (20) Operating Engineer;
- (21) Plumber/Gasfitter;
- (22) Principal (public school);
- (23) Private Correctional Officer;
- (24) Professional Engineer;
- (25) Property Manager;
- (26) Real Estate Appraiser;
- (27) Real Estate Broker;
- (28) Real Estate Salesperson;
- (29) Refrigeration and Air Conditioning Mechanic;
- (30) Securities Agent;
- (31) Securities Broker-Dealer;
- (32) Security Alarm Agent;
- (33) Special Police Officer;
- (34) Steam Engineer;
- (35) Taxicab/Limousine Operator;
- (36) Teacher and Other Instructional Personnel (public schools only);

- (37) Veterinarian;
- (38) Elevator Mechanic;
- (39) Elevator Contractor; and
- (40) Elevator Inspector.

(b) No other non-health related occupation or profession shall be regulated other than as set forth in subsection (a) of this section, except where there has been a determination by the Mayor that regulation is needed to protect the public interest and is consistent with the criteria for regulation specified in § 47-2853.02.

(c) All non-health related occupations and professions shall be regulated by the Mayor through the Department of Consumer and Regulatory Affairs, except as follows:

(1) Attorneys shall be regulated by the District of Columbia Court of Appeals, as provided in § 11-2501.

(2) Notaries public shall be regulated by the Mayor, as provided in § 1-1201.

(3) Principals, teachers, and other instructional employees of the District of Columbia public schools shall be regulated by the Superintendent of Schools of the District of Columbia as delegated by the Board of Education, pursuant to § 38-105 [repealed], and teachers and instructional employees of the University of the District of Columbia ("University") by the Board of Trustees of the University pursuant to §§ 38-1202.01 and 38-1202.06 and § 38-1202.11.

(4) Insurance agents and brokers, securities agents and brokers, and investment advisers shall be regulated by the Department of Insurance and Securities Regulation, as provided in subchapter I of Chapter 1 of Title 31, Chapter 36 of Title 3, and Chapter 37 [repealed] of Title 3.

(5) Hackers, taxicab and limousine operators shall be regulated by the District of Columbia Taxicab Commission, as provided in § 47-2829.

(6) Commercial drivers and commercial bicycle operators shall be regulated by the Department of Public Works, as provided in Chapter 16 of Title 50 and Chapter 4 of Title 50.

(7) Special police, security alarm agents and private correctional officers shall be regulated by the Metropolitan Police Department as provided in § 5-129.02; § 7-2805; and subchapter VII of Chapter 2 of Title 24.

(8) Boxers, wrestlers, referees and other officials involved in boxing and wrestling contests shall be regulated by § 3-606(b).

(9) Clinical laboratory directors and clinical laboratory technicians shall be regulated by the Mayor in accordance with Chapter 2 of Title 44.

(10) Veterinarians shall be regulated by the Mayor in accordance with subchapter I of Chapter 5 of Title 3.

(11) Funeral directors shall be regulated by the Mayor in accordance with Chapter 4 of Title 3.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; Mar. 3, 2010, D.C. Law 18-111, § 2151(b), 57 DCR 181.)

**Prior Codifications.** — 1981 Ed., § 47-2853.4.

**Effect of amendments.** — D.C. Law 18-111, in subsec. (a), deleted "and" from the end of par.



(36); substituted “, and” for a period at the end of par. (37), and added pars. (38) to (40).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2151(b) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2151(b) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-305.02.

**Short title.** — Short title: Section 2150 of D.C. Law 18-111 provided that subtitle P of title II of the act may be cited as the “Elevator Maintenance Standards and Licensing Act of 2009”.

## CASE NOTES

### Passenger transport.

Under District of Columbia law, report of bus passenger's expert was sufficient to establish national standard of care for safe transport of passengers, in support of summary judgment on passenger's claim against Washington Metropolitan Transit Authority (WMATA) alleging driver's negligent operation of the bus caused her to fall after she had boarded the bus but before she sat down; expert had the requisite specialized skills and training to qualify as an expert, his report indicated that he relied upon research done by professional organizations

and representatives of the largest transportation systems in the United States to determine that WMATA policies reflected the national standards, and he concluded that bus driver deviated from those standards by failing to monitor and observe passengers' readiness for movement before driving away, failing to provide any audible communication to passenger that he intended to drive away, and failing to ensure that the bus moved in a safe way due to his abrupt acceleration and braking. *Robinson v. Washington Metropolitan Area Transit Authority*, 2012 WL 1513053 (2012).

## § 47-2853.05. Exemptions; federal services.

Any person who is providing occupational or professional services for the federal government at a federal government facility in the District shall not be regulated under this subchapter. Any person who has a license or certificate issued by the federal government permitting that person to provide particular occupational or professional services may provide such services in the District of Columbia without obtaining a District license or certificate as long as the services provided by that person are within the scope of the federal license or certificate.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.5.

**Legislative history of Law 12-261.** — For

legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

## § 47-2853.06. Establishment of boards.

(a) There is established a Board of Architecture and Interior Designers to consist of 7 members of whom 3 shall be architects, 3 shall be interior designers and one shall be a consumer member. The Board shall regulate the practice of architecture and the practice of interior design.

(b)(1) There is hereby established a Board of Accountancy to consist of 5 members. Of the members of the Board, one shall be a consumer member and 4 shall be licensed as certified public accountants who, at the time of their appointments, have been engaged in the practice of public accountancy as

certified public accountants in the District for a period of not less than 5 years. The Board shall regulate the practice of public accountants and certified public accountants.

(2) The standards of attestation specified in § 47-2853.41(1) shall be adopted by reference by the Board pursuant to rulemaking and shall be those developed for general application by recognized national accountancy organizations, such as the American Institute of Certified Public Accountants and the Public Company Accounting Oversight Board.

(c) There is established a Board of Barber and Cosmetology consisting of 11 members of whom 3 shall be barbers, 3 shall be cosmetologists, 3 shall be specialty cosmetologists and 2 shall be consumer members. The Board shall regulate the practice of barbers and cosmetologists, including specialty cosmetology practices such as braiding, electrolysis, esthetics, manicuring and others as the Mayor may from time to time establish by rule, instructors and managers of these practices, and owners of such facilities.

(d) There is established a Board of Industrial Trades consisting of 15 members, of whom 3 shall be plumbers licensed in the District, 2 shall be electricians licensed in the District, 2 shall be refrigeration and air conditioning mechanics licensed in the District, 2 shall be steam and other operating engineers licensed in the District, 2 shall be asbestos workers, one shall be an elevator mechanic licensed in the District, one shall be an elevator inspector licensed in the District, one shall be an elevator contractor licensed in the District, and one shall be a consumer member. The Board of Industrial Trades shall regulate the practice of plumbers, gasfitters, electricians, refrigeration and air conditioning mechanics, steam and other operating engineers, asbestos workers, elevator mechanics, elevator inspectors, except for those employed by the District of Columbia or by the Washington Metropolitan Area Transit Authority, and elevator contractors. The Board may establish bonding and insurance requirements, subcategories of licensure, education, and experience requirements for licensure, and other requirements.

(e) There is established a Board of Professional Engineering consisting of 7 members of whom 4 shall be professional engineers licensed in the District in various disciplines, 2 shall be land surveyors licensed in the District, and one shall be a consumer member. The Board shall regulate the practice of professional engineers and land surveyors.

(f) There is established a Board of Funeral Directors consisting of 5 members of whom 4 shall be funeral directors licensed in the District and one shall be a consumer member. The Board shall regulate the practice of funeral directors.

(g) There is established a Board of Real Estate Appraisers consisting of 5 members, of whom 3 shall be real estate appraisers licensed and in good standing in the District with not less than 3 years experience in real estate appraising immediately preceding his or her appointment to the Board, one of whom shall be a real estate broker licensed and in good standing in the District, and one shall be a consumer member. The Board shall regulate the practice of real estate appraisal, including the functions of a state appraiser certifying and licensing agency under Title XI of the Financial Institutions



Reform, Recovery, and Enforcement Act of 1989, approved August 9, 1989 (103 Stat. 511; 12 U.S.C. §§ 3331 through 3351).

(h) There is established a Board of Real Estate consisting of 9 members of whom 3 shall be real estate brokers licensed in the District, 2 shall be real estate salespersons licensed in the District, 2 shall be property managers licensed in the District, one shall be an attorney admitted to the bar of the District of Columbia and engaged in the practice of real estate law, and one shall be a consumer member. All members of the Board shall be residents of the District during their tenure. The Board shall regulate the practices of real estate brokers, real estate salespersons, and property managers.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; June 16, 2006, D.C. Law 16-130, § 2(b), 53 DCR 4718; Mar. 3, 2010, D.C. Law 18-111, § 2151(c), 57 DCR 181; Dec. 2, 2011, D.C. Law 19-43, § 2(b), 58 DCR 8928.)

**Cross references.** — Mayoral nomination of agency heads, review and approval of Council, boards established under this section, see § 1-523.01.

**Prior Codifications.** — 1981 Ed., § 47-2853.6.

**Effect of amendments.** — D.C. Law 16-130 rewrote subsecs. (b) and (g).

D.C. Law 18-111 rewrote subsec. (d), which had read as follows: “(d) There is established a Board of Industrial Trades consisting of 15 members of whom 3 shall be plumbers licensed in the District, 3 shall be electricians licensed in the District, 3 shall be refrigeration and air conditioning mechanics licensed in the District, 3 shall be steam and other operating engineers licensed in the District, 2 shall be asbestos workers, and one shall be a consumer member. The Board shall regulate the practice of plumbers, gasfitters, electricians, refrigeration and air conditioning mechanics, steam and other operating engineers, and asbestos workers.”

D.C. Law 19-43, in subsec. (b), designated the existing text as par. (1), and added par. (2).

**Temporary Amendment of Section.** — Section 2(c) of D.C. Law 16-101 amended subsecs. (b) and (g) to read as follows:

“(b) There is established a Board of Accountancy to consist of 5 members. Of the members of the Board, one shall be a consumer member and 4 shall be licensed as certified public accountants who, at the time of their appointments, have been engaged in the practice of public accountancy as certified public accountants in the District for a period of not less than 5 years. The Board shall regulate the practice of public accountants and certified public accountants.”

“(g) There is established a Board of Real Estate Appraisers consisting of 5 members, of whom 3 shall be real estate appraisers licensed and in good standing in the District with not less than 3 years experience in real estate

appraising immediately preceding his or her appointment to the Board, one shall be a real estate broker licensed and in good standing in the District, and one shall be a consumer member. In addition to assuming the powers enumerated in § 47-2853.08, the Board shall regulate the practice of real estate appraisal, including the functions of a state appraiser certifying and licensing agency under Title XI of the Financial Institutions Recovery, Reform, and Enforcement Act of 1989, approved August 9, 1989 (103 Stat. 183; 12 U.S.C. §§ 3331 through 3351).”

Section 4(b) of D.C. Law 16-101 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(c) of Non-Health Related Occupations and Professions Licensure Emergency Act of 2006 (D.C. Act 16-255, January 26, 2006, 53 DCR 763).

For temporary (90 day) amendment of section, see § 2151(c) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2151(c) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 16-130.** — Law 16-130, the “Non-Health Related Occupations and Professions Licensure Amendment Act of 2006”, was introduced in Council and assigned Bill No. 16-524 which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on March 7, 2006, and April 4, 2006, respectively. Signed by the Mayor on April 21,

2006, it was assigned Act No. 16-348 and transmitted to both Houses of Congress for its review. D.C. Law 16-130 became effective on June 16, 2006.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-305.02.

**Legislative history of Law 19-43.** — Law 19-43, the “Accountant Mobility Act of 2011”, was introduced in Council and assigned Bill No. 19-80, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on July 12, 2011, and September 20, 2011, respectively. Signed by the Mayor on October 1, 2011, it was assigned Act No. 19-173 and transmitted to both Houses of Congress for its review. D.C. Law 19-43 became effective on December 2, 2011.

**Delegation of Authority.** — Re-Designation of the Board of Real Estate as the Real Estate Commission, see Mayor’s Order 2009-11, February 2, 2009 (56 DCR 2030).

**Editor’s notes.** — Section 134 of D.C. Law 13-91, as amended by section 18(b) of D.C. Law 13-313, transferred the authority established by the District of Columbia Funeral Services Regulatory Act of 1984 (D.C. Law 5-84) to the Board of Funeral Directors established by this section.”

Although a new Board of Funeral Directors has been established by the Second Omnibus Regulatory Reform Act of 1998, effective April 20, 1999 (D.C. Law 12-261), codified under D.C. Official Code § 47-2853.06(f), the old board, codified under D.C. Official Code § 3-401 et seq. has not been abolished by law.

## § 47-2853.07. Appointment and tenure of board members.

(a) The Mayor, with the consent of the Council, shall appoint the members of each board to serve a 3-year term of office. The members first appointed shall serve staggered terms made for one, 2, or 3 years so that approximately one-third of the membership of each board shall expire each year. Members of the boards shall serve until their successor is appointed. Members may be appointed to succeed themselves, provided, however, that no member shall be appointed to serve more than 3 full consecutive 3-year terms. The terms of members of a board, after the initial terms, shall expire on the third anniversary of the date the first members constituting a quorum take the oath of office. A vacancy on a board shall be filled in the same manner as the original appointment was made. A member appointed to fill a vacancy shall serve until the expiration of the term or until a successor is appointed and sworn into office, whichever is later.

(b) The nomination transmitted under subsection (a) of this section shall be considered in accordance with § 1-523.01.

(c) The Mayor may remove a member of a board for incompetence, misconduct, or neglect of duty. The failure of a member of a board to attend at least half of the regular scheduled meetings of the board within a 12-month period shall constitute neglect of duty within the meaning of this section.

(d) Board members shall meet the following requirements for appointment or tenure:

(1) The members of each board shall be residents of the District at the time of appointment and during their tenure on the board. Members of the Board of Real Estate also shall have been residents of the District for at least one year prior to their appointment.

(2) Each professional member of a board, in addition to the requirements of paragraph (1) of this subsection, shall have been engaged in the practice of the occupation or profession regulated by the board for at least 3 years preceding appointment. Notwithstanding the above, professional members of the Board of Real Estate shall each have been actively engaged in their field for not less than 5 years immediately prior to their appointment to the Board and shall remain active in their field during their tenure on the Board.



(3)(A) Each consumer member of a board, in addition to the requirements of paragraph (1) of this subsection, shall:

- (i) Be at least 18 years of age;
- (ii) Not be a practitioner of a profession or occupation supervised by that board, or in training to become one;
- (iii) Not have a household member who is a practitioner of a profession or occupation supervised by that board, or in training to become one; and
- (iv) Not own, operate, or be employed in or have a household member who owns, operates, or is employed in a business which has as its primary purpose the sale of goods or services to practitioners of a profession or occupation supervised by that board.

(B) Within the meaning of subparagraph (A) of this paragraph, the term "household member" means a relative, by blood or marriage, or a ward of a person, or someone who shares the person's actual residence.

(e) The position of a member of a board shall be forfeited upon his or her failure to maintain the qualifications required by this subchapter.

(f) Each professional member of a board shall disqualify himself or herself from acting on his or her own application for licensure or license renewal or on any other matter related to his or her practice of an occupation or profession.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.7. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For 2801.

## § 47-2853.08. Powers of the boards.

The boards established under this subchapter shall have the power, consistent with this subchapter, to:

(1) Determine the scope of practice, the requirements which an applicant must meet for initial licensure, certification or registration and for renewal of the same, including any continuing education requirements, and shall determine the appropriate level of regulation for every occupation or professional under the authority of the board;

(A) Where such standards already exist in any law or regulation of the District, those standards shall remain in effect until altered or amended; and

(B) Each board shall be responsible for continually monitoring the standards for the professions and occupations under its authority and for recommending to the Mayor changes in existing standards when such changes are necessary or desirable;

(2) Determine whether the standards for licensure by another jurisdiction, or certification by a national certifying organization, are substantially equivalent to the requirements of this subchapter and authorize the issuance of a license by reciprocity or endorsement to an applicant:

(A) Who is licensed or certified and in good standing under the laws of another state with requirements which, in the opinion of the board, were substantially equivalent at the time of licensure to the requirements of this

subchapter, and which state admits professional licensed by the District in a like manner; and

(B) Who pays the applicable fees established by the Mayor;

(3) Review, upon referral from the Mayor, the qualifications of a candidate for licensing, certification or registration, or for renewal, whose eligibility is unclear and shall determine whether that candidate meets the applicable criteria for that occupation or profession. The determination of the board shall be binding on the Mayor, who shall issue or deny the license, certificate, or registration accordingly;

(4) Advise the Mayor, on the content of rules governing the conduct of persons licensed, certified, or registered;

(5) Hear and decide protests from any person denied a license or certificate, or the renewal of the same, by an official authorized by the Mayor to issue such licenses or renewals on the ground that the person does not meet the eligibility standards set by the board. The determination of the board shall be binding on the Mayor, who shall issue or deny the license, certificate, or registration accordingly;

(6) Receive complaints of malpractice or other complaints against any persons licensed, certified, or registered under the jurisdiction of the board and shall have the authority, after a hearing in accordance with the procedures set forth in § 47-2853.22, to discipline any such person by the imposition of the penalties provided in this subchapter;

(7) Submit names of persons qualified to serve on that board as professional or consumer members to the Mayor in accordance with the procedures set forth in § 47-2853.07(b) and (c). Persons whose names are submitted for professional seats on the board shall be determined by the board to be competent and experienced members of the profession with good reputations in their fields. Persons whose names are submitted for citizen seats shall be determined by the board to have no conflicts and to be willing and able to serve;

(8) Convene in committees smaller than the full board for the purpose of carrying out specific functions of the board, such as investigating complaints or determining appropriate discipline in accordance with the procedures set forth in §§ 47-2853.17 through 47-2853.19 [§ 47-2853.19 repealed, see now § 47-2844.01], provided that such smaller committees consist of not fewer than 3 board members, and the actions of such smaller committees are ratified by the full board;

(9) Notify the Mayor of actions taken regarding a licensee, certificate holder, or applicant; and

(10) Monitor the issuance of licenses and certifications by persons authorized to do so by the Mayor to make sure that the qualification standards established by the board are being adhered to, and shall recommend to the Mayor the disciplining or removal of any official issuing licenses not in accordance with those standards.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.8.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see His-



torical and Statutory Notes following § 47-2801.

### § 47-2853.09. General provisions.

(a) All boards shall adopt uniform procedures which at a minimum require:

- (1) Each board to elect a chairperson from among its members;
- (2) Each board to meet not less than 4 times a year at times and places it determines and shall publish notice of all regular meetings at least one week in advance in the District of Columbia Register;

- (3) A quorum to be a majority of the number of positions on the board; and
- (4) A majority vote of those present and voting to be necessary and sufficient for any action taken by a board.

(b) Members of each board shall be entitled to receive compensation in accordance with § 1-611.08, and in addition shall be reimbursed for reasonable travel and other expenses incurred in the performance of their duties, subject to appropriations.

(c) No member of any board authorized by this subchapter shall be subject to any civil or criminal liability for actions taken or decisions rendered in carrying out this subchapter, nor for any statements made or recorded in the course of carrying out his or her responsibilities under this subchapter.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.9. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For 2801.

### § 47-2853.10. Staffing and administration.

(a) The boards established by this subchapter shall be under the administrative control of the Mayor. The Mayor shall be responsible for:

- (1) Promptly issuing and renewing licenses or certificates or registering those persons who meet the standards established by the boards for each regulated profession or occupation of this subchapter, except that where there is a question as to whether an applicant is qualified, that question shall be referred to the appropriate board for resolution. Upon resolution of the question, the Mayor shall promptly take such action as the board determines is appropriate;

- (2) Planning, developing, and maintaining procedures to ensure that the boards receive administrative support, including staff and facilities, sufficient to enable them to perform their responsibilities;

- (3) Providing investigative and inspection services to the boards;

- (4) Arranging for hearings on cases pursuant to guidelines established in § 47-2853.22 when requested to do so by a board, and providing facilities and support personnel to enable the board to hold such hearings, record the proceedings, and issue the resulting opinion;

- (5) Furnishing expert services in noncompliance cases brought in an administrative or court proceeding;

- (6) Providing budgetary and personnel services;

(7) Maintaining central files of records pertaining to licensure, certification, registration, inspections, investigations, and other matters requested by the boards;

(8) Providing information to the public concerning regulatory requirements and procedures;

(9) Publishing and distributing forms and instructions describing regulatory requirements and procedures and other materials as requested by the boards;

(10) Assisting, supplying, furnishing, and performing other administrative, clerical, and technical support the Mayor determines is necessary or appropriate;

(11) Making necessary rules relating to the administrative procedures for the regulation of professions and occupations;

(12) Issuing all rules necessary to implement the provisions of this subchapter;

(13) Notifying persons or other jurisdictions of the status of a licensee or certificate holder as deemed appropriate by rule or District or federal law; and

(14) Notifying other jurisdictions of disciplinary action taken against a licensee or certificate holder as required by District or federal law.

(b) In carrying out the administrative responsibilities described in subsection (a) of this section, the Mayor may out-source, by contract in accordance with the procurement laws of the District, any function that can be more efficiently and effectively performed in that manner.

(c) The D.C. Office of Personnel shall set the compensation of support personnel of the boards in accordance with Chapter 6 of Title 1. The Chief Procurement Officer or his or her designee may enter into contracts for support services for the boards in accordance with Chapter 3 of Title 2.

(d) The Mayor shall establish fee schedules for all services related to the regulation of occupations and professions. At the time of application for initial licensing, certification or registration, and at the time of application for renewal or for reinstatement of inactive or lapsed licenses, certificates or registration, each applicant shall be notified of, and shall pay, all fees and costs required for licensure, certification, or registration for the occupation or profession. The fee for the regulation of each profession or occupation shall be reasonably related to the cost of administering the licensing, certification or registration, including the cost of testing, processing and issuing the license, certificate or registration, and a proportionate share of the cost of running the board and any hearing procedures and other administrative functions. Fees, whenever possible, shall be comparable to the fees charged in neighboring jurisdictions for a similar license or certification. Application fees paid under this section shall not be refundable, even if the applicant withdraws his or her application for licensure, certification or registration, or is found to be not qualified.

(e) Each board, before March 1 of each year, shall submit a report to the Mayor and the Council of its official acts during the preceding fiscal year.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)



**Prior Codifications.** — 1981 Ed., § 47-2853.10.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 12-261, the “Second Omnibus Regulatory Reform Amendment Act of 1999”, see Mayor’s Order 2000-70, May 2, 2000 (47 DCR 4752).

### § 47-2853.11. Occupations and Professions Licensure Special Account.

(a) In accordance with § 47-131(c)(4), there is hereby established within the General Fund of the District of Columbia a special account, called the Occupations and Professions Licensing Special Account to which shall be credited, without regard to fiscal year limitation pursuant to an act of Congress, the fees that are identified in this subchapter.

(b) No revenues deposited into the continuing, nonlapsing special account may be obligated or spent in any year without a Congressional appropriation. Revenues in this continuing, nonlapsing special account that are carried over into a succeeding fiscal year may not be obligated or spent in the succeeding year without a new Congressional appropriation that permits such obligation or expenditure.

(c) Subject to the applicable laws relating to the appropriation of District funds, monies received and deposited in the Occupation and Professions Licensure Special Account shall be used to defray the expenses to discharge the administrative and regulatory duties as prescribed by this subchapter. The special account shall not be used by any other District government agency and shall be used solely to carry out the functions of this subchapter.

(d) The special account shall be continuing. Revenues deposited into the special account shall not revert to the General Fund at the end of any fiscal year or at any other time, but shall be continually available for the uses and purposes set forth in this subchapter, subject to authorization by Congress in an appropriations act.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.11.

**Legislative history of Law 12-261.** — For

legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

### § 47-2853.12. License, certification, and registration criteria; waiver.

(a) A person applying for licensure, certification, or registration under this subchapter shall establish to the satisfaction of the Mayor that the person:

(1) Has not been convicted of an offense which bears directly on the fitness of the person to be licensed; provided, that this restriction shall not apply to the following occupations, unless the Mayor has issued rules before [May 24, 2005], specifying the criteria for the determination of fitness for licensure based on a specific offense committed by an applicant:

(A) Asbestos worker;

(B) Barber;

- (C) Cosmetologist;
- (D) Commercial bicycle operator;
- (E) Electrician;
- (F) Funeral director;
- (G) Operating engineer;
- (H) Plumber/gasfitter;
- (I) Refrigeration and air conditioning mechanic; and
- (J) Steam engineer.

(2) Is at least 18 years of age, or at least 17 years of age if applying for license as a barber under § 47-2853.72 or as a cosmetologist, a cosmetologist-manager, a cosmetologist-owner, or any subcategory of specialty cosmetologist under § 47-2853.82;

(3) Has successfully completed the requirements set forth in law or regulation, as applicable;

(4) If required, has passed an examination or otherwise met the requirements established by the relevant board to demonstrate his or her fitness to practice the profession or occupation; and

(5) Meets any other requirements established by the relevant board by regulation to assure that the applicant has had the proper training, experience, and qualifications to practice the profession or occupation or any subcategory or specialization of the profession or occupation.

(b) A board shall waive the requirements for passage of an examination or other proof of fitness to practice for any person who:

(1) Presents proof that he or she is licensed or certified in the same or substantially similar profession or occupation, and is currently in good standing, in any state which, on the date such license or certification was issued had standards at least as high as those required for licensure or certification in the District and admits professionals licensed by the District in a like manner; or

(2) Has passed an examination acceptable to the board (or has met other requirements for certification) and has been certified by a recognized national certifying organization acceptable to the board whose standards on the date of such certification were at least as high as the standards required for the same profession or occupation in the District, and has not been disciplined or otherwise disqualified by the national certifying organization.

(c)(1) Notwithstanding subsection (b) of this section and except as provided in paragraph (2) of this subsection, where a board determines that the occupation or profession requires a substantial knowledge of District law or procedures, the board may require that an applicant, who is otherwise qualified by virtue of licensure in another state or certification by a national certifying organization, take an examination demonstrating knowledge of the relevant District laws or procedures.

(2) An applicant applying for licensure as a journeyman electrician pursuant to § 47-2853.92(b-1) shall not be required to take an examination demonstrating knowledge of the relevant District laws or procedures.

(d) Each board by regulation shall maintain a list of each national certifying organization, and each state, whose standards have been determined to be at



least as high as those required by the District, and which admits professionals licensed by the District in a like manner.

(d-1) The Board of Industrial Trades shall annually update the list of national certifying organizations required to be maintained pursuant to subsection (d) of this section.

(e) The Mayor may deny a license or certificate to an applicant whose license or certificate to practice an occupation or profession was revoked or suspended in another jurisdiction if the basis of the revocation or suspension would have caused a similar result in the District, or if the applicant is the subject of pending disciplinary action regarding his or her right to practice in another jurisdiction.

(f) The Mayor may deny a license or certificate to an applicant licensed or certified in another jurisdiction who has failed to meet the continuing education requirements established by that jurisdiction, but failure of an applicant to meet the continuing education requirements established by the District shall not be a basis for denial of a District license or certificate if the jurisdiction in which the applicant was licensed does not have continuing education requirements or has requirements that are different than those required by the District for the occupation or profession.

(g) The Mayor may grant a license or certificate to an applicant whose education and training in an occupation or profession has been successfully completed in a foreign school, college, university, or training program, or who is licensed or certified in the same or substantially similar profession or occupation by the foreign jurisdiction, if the applicant otherwise qualifies for licensure or certification, including passing an examination if required, and if the board determines that the education and training requirements for licensure or certification in the foreign jurisdiction were substantially equivalent, at the time they were received by the applicant, to the requirements of this subchapter.

(h) An applicant for a license, certificate, or registration shall:

(1) Submit an application to the Mayor on the form required by the Mayor; and

(2) Pay the applicable fees established by the Mayor.

(i) An applicant for licensure who otherwise qualifies for a license is entitled to be examined as follows:

(1) Each board that requires the passage of an examination for licensure shall give applicants the opportunity to take such examination at least twice a year.

(2) When a board determines that a national examination is acceptable, then the frequency, time, and place that the national examination is given shall be considered acceptable and in accordance with this subchapter.

(3) The Mayor shall notify each qualified applicant of the time and place of examination.

(4) Except as otherwise provided by this subchapter, each board shall determine the subjects, scope, form, and passing score for examinations to assess the ability of the applicant to practice effectively the occupation or profession regulated by the board, except that when a national examination

has been determined to be acceptable, the board shall use the passing score recommended by the organization administering the national examination.

(j) A person licensed or certified under this subchapter to practice an occupation or profession is authorized to practice that occupation or profession in the District while the license is effective.

(k) A person who fails to renew a license or certification required by this subchapter, or fails to re-register, shall be considered to be unqualified to practice the occupation or profession and subject to the penalties set forth in this subchapter and other applicable laws of the District if he or she continues to practice the profession or occupation.

(l) A license, certificate or registration, expires 2 years from the date of its first issuance or renewal unless renewed in accordance with procedures established in this section, except where another period is provided by law or regulation.

(m) Each board may establish by rule continuing education requirements as a condition for renewal of licenses or certificates issued under this subchapter.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; May 24, 2005, D.C. Law 15-357, § 202(a), 52 DCR 1999; Nov. 16, 2006, D.C. Law 16-176, § 2, 53 DCR 6505; Feb. 24, 2012, D.C. Law 19-82, § 2(a), 58 DCR 11022.)

**Prior Codifications.** — 1981 Ed., § 47-2853.12.

**Effect of amendments.** — D.C. Law 15-357 rewrote subsec. (a)(1) which had read as follows: “(1) Has not been convicted of an offense which bears directly on the fitness of the person to be licensed.”

D.C. Law 16-176, in subsec. (a)(2), inserted “, or at least 17 years of age if applying for license as a barber under § 47-2853.72 or as a cosmetologist, a cosmetologist-manager, a cosmetologist-owner, or any subcategory of specialty cosmetologist under § 47-2853.82”.

D.C. Law 19-82, in subsec. (c), designated the existing text as par. (1), substituted “section and except as provided in paragraph (2) of this subsection,” for “section” in par. (1), and added par. (2); and added subsec. (d-1).

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-357.** — Law 15-357, the “Omnibus Public Safety Ex-offender Self-sufficiency Reform Amendment Act of 2004”, was introduced in Council and assigned Bill No. 15-785, which was referred to the Committee on Judiciary. The Bill was adopted on first and second readings on Novem-

ber 9, 2004, and December 21, 2004, respectively. Signed by the Mayor on January 19, 2005, it was assigned Act No. 15-744 and transmitted to both Houses of Congress for its review. D.C. Law 15-357 became effective on May 24, 2005.

**Legislative history of Law 16-176.** — Law 16-176, the “Barber and Cosmetologist License Act of 2006”, was introduced in Council and assigned Bill No. 16-469, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on June 6, 2006, and July 11, 2006, respectively. Signed by the Mayor on July 21, 2006, it was assigned Act No. 16-454 and transmitted to both Houses of Congress for its review. D.C. Law 16-176 became effective on November 16, 2006.

**Legislative history of Law 19-82.** — Law 19-82, the “Electrician Equality Act of 2011”, was introduced in Council and assigned Bill No. 19-44, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on November 1, 2011, and December 6, 2011, respectively. Signed by the Mayor on December 16, 2011, it was assigned Act No. 19-242 and transmitted to both Houses of Congress for its review. D.C. Law 19-82 became effective on February 24, 2012.

## § 47-2853.13. Procedures for renewal of license, certification, and registration.

(a) At least 30 days before the license, certification or regulation expires, or



a greater period as established by rule, the Mayor shall send to the person licensed, certified or registered, by first class mail to his or her last known address, a renewal notice that states:

(1) The date on which the current license, certificate, or registration expires;

(2) The date by which the renewal application must be received for renewal to be issued prior to expiration; and

(3) The amount of the renewal fee.

(b) Before a license, certificate or registration expires, it may be renewed for an additional term, if the person applying for renewal:

(1) Submits a timely application;

(2) Is otherwise eligible to be renewed;

(3) Pays the renewal fee established by the Mayor;

(4) Submits satisfactory evidence of compliance with any continuing education requirements established by the board; and

(5) Meets any other requirements established by law or regulation.

(c) The Mayor shall renew the license or certificate, or shall re-register, each applicant for renewal who meets the requirements of this section and § 47-2853.13 [sic], unless a question has been raised about whether an applicant for renewal is eligible for renewal. Where questions arise about the eligibility of the applicant for renewal, the board with responsibility for that occupation or profession shall investigate and determine whether the applicant shall be renewed.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.13. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For

## § 47-2853.14. Inactive status.

(a) Upon application by any person licensed, certified, or registered to practice an occupation or profession in the District and payment of an inactive status fee established by the Mayor, the Mayor shall place such person on inactive status.

(b) While on inactive status, the person shall not be subject to the renewal fee and shall not practice, attempt to practice, or offer to practice the occupation or profession in the District.

(c) The Mayor shall issue a license or certificate or shall register any person who is on inactive status for less than 5 years and who desires to resume the practice of an occupation or profession for which that person was previously licensed, certified, or registered if that person:

(1) Pays the fee established by the Mayor;

(2) Complies with the continuing education requirements in effect at the time application is made for reactivation; and

(3) Complies with all current requirements for renewal of licensing, certification, or registration.

(d) If the person seeking return to active status has been on inactive status

for 5 years or more, he or she shall be considered a new applicant and shall be required to meet all current requirements for licensure, unless the relevant board in its discretion determines that the failure to renew during the 5-year inactive period was due to reasonable cause or excusable neglect.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.14. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-

**Legislative history of Law 12-261.** — For 2801.

### § 47-2853.15. Reinstatement of expired license.

(a) If a person fails for any reason to renew the license, certificate, or registration prior to expiration, the Mayor shall reinstate the license, certificate, or registration if the person:

(1) Applies to the board for reinstatement within 5 years after the license, certification or registration expires;

(2) Complies with current requirements for renewal of a license, certification or registration;

(3) Pays a reinstatement fee established by the Mayor; and

(4) Submits to the board satisfactory evidence of compliance with the qualifications and requirements established under this subchapter for reinstatements.

(b) The Mayor shall not reinstate the license, certification, or registration of a person who fails to apply for reinstatement within 5 years after the license, certification or registration expires. Such person may become licensed, certified, or registered only by meeting the requirements for obtaining an initial license, certification, or registration under this subchapter.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.15. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-

**Legislative history of Law 12-261.** — For 2801.

### § 47-2853.16. Display of license, certificate, or registration; notice of changes of address.

(a) Each person licensed, certified, or registered under this subchapter shall conspicuously display or maintain on file the license, certificate, or registration in all places of covered non-health related business or places of employment.

(b) Each person licensed, certified, or registered under this subchapter shall notify the Mayor of any change of address of the place of residence or place of business or employment within 30 days after the change of address.

(c) Each person licensed, certified, or registered under this subchapter shall be subject to the penalties provided by this subchapter for failure to comply with the requirements of this section.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)



**Prior Codifications.** — 1981 Ed., § 47-2853.16. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-

**Legislative history of Law 12-261.** — For 2801.

### **§ 47-2853.17. Revocation, suspension, or denial of license or privilege; civil penalty; reprimand.**

(a) Each board, subject to the right of a hearing as provided by this subchapter, on an affirmative vote of a majority of its members present and voting may take 1 or more of the disciplinary actions provided in subsection (c) of this section against any applicant or person permitted by this subchapter to practice an occupation or profession regulated by the board who:

(1) Knowingly provides false or misleading information on or in support of an application or renewal application;

(2) Fraudulently or deceptively obtains, or attempts to obtain, a license or certificate, or to register, for another person;

(3) Fraudulently or deceptively uses a license, certificate, or registration;

(4) Is disciplined by a licensing or disciplinary authority in another jurisdiction, or is convicted or disciplined by a court of any jurisdiction, for conduct that would be grounds for disciplinary action under this section;

(5) Has been convicted in any jurisdiction of any crime involving any offense that bears directly on the fitness of the person to be licensed; provided, that this restriction shall not apply to the following occupations, unless the Mayor has issued rules before the effective date of the Trade Occupations Exemption from Conviction Restriction on Licensure Act of 2004, passed on 2nd reading on December 21, 2004 (Enrolled version of Bill 15-712) [D.C. Law 15-357, effective May 24, 2005], specifying the criteria for the determination of fitness for licensure based on a specific offense committed by an applicant:

(A) Asbestos worker;

(B) Barber;

(B-i) Body artist;

(C) Cosmetologist;

(D) Commercial bicycle operator;

(E) Electrician;

(F) Funeral director;

(G) Operating engineer;

(H) Plumber/gasfitter;

(I) Refrigeration and air conditioning mechanic; and

(J) Steam engineer.

(6) Has been determined to be professionally or mentally incompetent or physically incapable of carrying out the services for which that person has been licensed, certified or registered;

(7) Is addicted to, or habitually abuses, any narcotic or controlled substance as defined in Chapter 9 of Title 48 ("Uniform Controlled Substances Act").

(8) Provides, or attempts to provide, professional services while under the influence of alcohol or while using any narcotic or controlled substance as defined in the Uniform Controlled Substances Act, or other drug in excess of therapeutic amounts or without valid medical indication;

(9) Willfully makes or files a false report or record in the practice of his or her occupation or profession, willfully fails to file or record any report required by law, impedes or obstructs the filing or recording of the report, or induces another to fail to file or record the report;

(10) Willfully fails or refuses to comply with any lawful inquiry made by a board with authority over the person's occupation or profession, or to cooperate fully with such board in the conduct of its official duties;

(11) After proper request in accordance with law, fails to provide records kept by that person in the course of the practice of his occupation or profession to which any other person is lawfully entitled;

(12) Willfully makes a misrepresentation as to what services the person is authorized to perform under the terms of his or her license, certificate or registration;

(13) Willfully practices an occupation or profession with an unauthorized person or aids an unauthorized person in the practice of an occupation or profession;

(14) Submits false statements to collect fees for which services have not been provided or submits statements to collect fees for services which were not authorized and were not necessary;

(15) Fails to pay a civil fine imposed by the Mayor, a board, other administrative officer, or court;

(16) Willfully breaches a statutory, regulatory, or ethical requirement of the profession or occupation, unless ordered by a court;

(17) Refuses to provide service for which he or she is licensed, certified or registered, to any person for reasons prohibited by Unit A of Chapter 14 of Title 2, or any other District or federal anti-discrimination law or regulation;

(18) Performs, offers, or attempts to perform services beyond the scope of those authorized by the registration, license or certificate, if such services require registration, licensing, or certification under District law;

(19) Violates any District or federal law, regulation, or rule related to the practice of the occupation or profession;

(20) Violates a valid order of a board or violates a consent decree or negotiated settlement entered into with a board;

(21) Demonstrates a willful or careless disregard for the standards of acceptable conduct and prevailing practice within the occupation or profession;

(22) Demonstrates a willful or careless disregard for the health, welfare, or safety of any client or member of the public in the practice of the occupation or profession, regardless of whether such person sustains actual injury as a result; or

(23) Fails to pay the applicable fees required by this subchapter.

(b)(1) A board may require a licensed or certified person to submit to a mental or physical examination whenever it has probable cause to believe that person is impaired due to the reasons specified in subsection (a)(6), (7), or (8) of this section. The examination shall be conducted by one or more health professionals designated by the board, and he, she, or they shall report their findings concerning the nature and extent of the impairment, if any, to the board and to the person who was examined.



(2) Notwithstanding the findings of the examination ordered by the board, the licensed or certified person may submit, in any proceedings before a board or other adjudicatory body, the findings of an examination conducted by one or more health professionals of his or her choice to rebut the findings of the examination ordered by the board.

(3) Willful failure or refusal to submit to an examination requested by a board shall be considered as affirmative evidence that the licensed or certified person is in violation of subsection (a)(6), (7), or (8) of this section, and the person shall not be entitled to submit the findings of another examination in disciplinary or adjudicatory proceedings related to the violation.

(c) Upon determination by a board that an applicant, licensee, or person permitted by this subchapter to practice in the District has committed any of the acts described in subsection (a) of this section, the board may direct the Mayor to:

(1) Deny a license or certificate to an applicant;

(2) Revoke or suspend the license of any licensee or the certificate of a certified person, or may refuse to register a person;

(3) Revoke or suspend the privilege to practice in the District of any person permitted by this subchapter to practice in the District;

(4) Reprimand any licensee or person permitted by this subchapter to practice in the District;

(5) Impose a civil fine not to exceed \$5,000 for each violation by any applicant, licensee, or person permitted by this subchapter to practice in the District;

(6) Require a course of remediation, approved by the board, which may include:

(A) Therapy or treatment;

(B) Retraining; and

(C) Reexamination, in the discretion of and in the manner prescribed by the board, after the completion of the course of remediation;

(7) Require a period of probation; or

(8) Issue a cease and desist order pursuant § 47-2853.19 [repealed, see now § 47-2844.01].

(c-1) An applicant may be denied a license or certificate by reason of a conviction which bears directly on the fitness of the person to be licensed only after consideration by the Mayor of the following criteria:

(1) The specific duties and responsibilities necessarily related to the license sought;

(2) The bearing, if any, the criminal offense or offenses for which the person was previously convicted will have on his fitness or ability to perform one or more of the duties or responsibilities specified under paragraph (1) of this subsection;

(3) The time that has elapsed since the occurrence of the criminal offense or offenses;

(4) The age of the applicant at the time of occurrence of the criminal offense or offenses;

(5) The seriousness of the criminal offense or offenses;

(6) Any information produced by the applicant, or produced on his behalf, in regard to his rehabilitation and good conduct; and

(7) The legitimate interest in protecting property, and the safety and welfare of specific individuals or the general public.

(c-2) If a conviction of a criminal offense which bears directly on the fitness of the person to be licensed is the basis for denial of an application for a license or certificate under subsection (c) of this section, the denial shall be in writing and specifically state the evidence presented and reasons for the denial. A copy of the denial shall be provided to the applicant.

(d) Nothing in this subchapter shall preclude prosecution for a criminal violation of this subchapter regardless of whether the same violation has been or is the subject of one or more of the disciplinary actions provided by this subchapter. Criminal prosecution may proceed prior to, simultaneously with, or subsequent to administrative enforcement action.

(e) A person licensed to practice an occupation or profession in the District is subject to the disciplinary authority of the relevant board on the basis of disciplinary action taken by another jurisdiction if the basis of the disciplinary action would have caused a similar result in the District.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; May 24, 2005, D.C. Law 15-357, § 202(b), 52 DCR 1999.)

**Prior Codifications.** — 1981 Ed., § 47-2853.17.

**Effect of amendments.** — D.C. Law 15-357 rewrote subsec. (a)(5) and added subsecs. (c-1) and (c-2). Prior to amendment, subsec. (a)(1) read as follows: “(5) Has been convicted in any jurisdiction of any crime involving any offense that bears directly on the fitness of the person to be licensed.”

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 15-357.** — For Law 15-357, see notes following § 47-2853.12.

## § 47-2853.18. Summary suspension or restriction of license.

(a) If the Mayor determines, after investigation, that the conduct of a licensee presents an imminent danger to the health and safety of persons in the District, the Mayor may summarily suspend or restrict, without a hearing, the license to practice an occupation or profession.

(b) The Mayor, at the time of the summary suspension or restriction of a license, shall provide the licensee with written notice stating the action that is being taken, the basis for the action, and the right of the licensee to request a hearing.

(c) A licensee shall have the right to request a hearing within 72 hours after service of notice of the summary suspension or restriction of license. The board shall hold a hearing within 72 hours of receipt of a timely request, and shall issue a decision within 72 hours after the hearing.

(d) Every decision and order adverse to a licensee shall be in writing and shall be accompanied by findings of fact and conclusions of law. The findings shall be supported by, and in accordance with, reliable, probative, and



substantial evidence. The relevant board shall provide a copy of the decision and order and accompanying findings of fact and conclusions of law to each party to a case or to his or her attorney of record.

(e) Any person aggrieved by a final summary action may file an appeal in accordance with subchapter I of Chapter 5 of Title 2.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.18. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For

## § 47-2853.19. Cease and desist orders. [Repealed].

Repealed.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; Apr. 4, 2006, D.C. Law 16-81, § 5(d), 53 DCR 1050.)

**Prior Codifications.** — 1981 Ed., § 47-2853.19. torical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For **Legislative history of Law 16-81.** — For legislative history of D.C. Law 12-261, see His- Law 16-81, see notes following § 47-2884.

## § 47-2853.20. Voluntary surrender of license.

(a) Any person who is the subject of an investigation into, or a pending proceeding involving, allegations of misconduct may voluntarily surrender his or her registration, license, or certificate to practice in the District, but only by delivering to the Mayor an affidavit stating that the person desires to surrender the registration, license, or certificate and that the action is freely and voluntarily taken, and not the result of duress or coercion.

(b) Upon receipt of the required affidavit, the Mayor shall enter an order revoking or suspending the registration, license, or certificate of the person.

(c) The voluntary surrender of a registration, license, or certificate shall not preclude the imposition of civil or criminal penalties against the licensee.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.20.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Delegation of Authority.** — Delegation of Revocation and Suspension Authority to Board of Real Estate, see Mayor's Order 2007-125, May 25, 2007 (54 DCR 9064).

## § 47-2853.21. Voluntary limitation or surrender; confidentiality.

(a)(1) Any registration, license, or certificate issued under this subchapter may be voluntarily limited by the licensee or certificate holder either:

(A) Permanently;

(B) For an indefinite period of time to be restored at the discretion of the board regulating the occupation or profession; or

(C) For a definite period of time under an agreement between the licensee or certificate holder and the board.

(2) During the period of time that the license or certificate has been limited, the licensee or certificate holder shall not engage in the practices or activities to which the voluntary limitation of practice relates.

(3) As a condition for accepting the voluntary limitation of practice, the board may require the licensee or certificate holder to do one or more of the following:

(A) Accept care, counseling, or treatment by a health professional acceptable to the board;

(B) Participate in a program of education prescribed by the board; and

(C) Practice under the direction of a licensed or certified person in the same or a similar occupation or profession acceptable to the board for a specified period of time.

(b)(1) Any license or certificate issued under this subchapter may be voluntarily surrendered to the board by the licensee or certificate holder either:

(A) Permanently;

(B) For an indefinite period of time to be restored at the discretion of the board regulating the occupation or profession; or

(C) For a definite period of time under an agreement between the licensee or certificate holder and the board.

(2) During the period of time that the license or certificate has been surrendered, the person surrendering the license or certificate shall not practice, attempt to practice, or offer to practice the occupation or profession for which the license or certificate is required, shall be considered as not licensed or certified, and shall not be required to pay the fees for licensing or certification.

(c) All records, communications, and proceedings of the board related to the voluntary limitation or surrender of a license under this section shall be confidential.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.21. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-

**Legislative history of Law 12-261.** — For 2801.

## § 47-2853.22. Hearings; final decision.

(a) Before a board denies an applicant a registration, license, or certificate, revokes or suspends a registration, license, or certificate, reprimands a licensee or certificate holder, imposes a civil fine, requires a course of remediation or a period of probation, or denies an application for reinstatement, it shall give the person against whom the action is contemplated an opportunity for a hearing before the board except where the denial of the license is based solely on an applicant's failure to meet minimum age, education, or experience requirements, pass a required examination, pay the



applicable fees established by the board, or where there are no material facts at issue.

(b) A board, at its discretion, may request the applicant, licensee or certificate holder to attend a settlement conference prior to holding a hearing under this section, and may enter into negotiated settlement agreements and consent decrees to carry out its functions.

(c) Except to the extent that this subchapter specifically provides otherwise, a board shall give notice and hold the hearing in accordance with subchapter I of Chapter 5 of Title 2.

(d) The hearing notice to be given to the person shall be sent by certified mail to the last known address of the person at least 15 days before the hearing.

(e) The person may be represented at the hearing by counsel.

(f)(1) A board may administer oaths and require the attendance and testimony of witnesses and the production of books, papers, and other evidence in connection with any proceeding under this section.

(2) A board shall require the attendance of witnesses and the production of books, papers, and other evidence reasonably requested by the person against whom an action is contemplated.

(3) In case of contumacy by or refusal to obey a subpoena issued by the board to any person, the board may refer the matter to the Superior Court of the District of Columbia, which may by order require the person to appear and give testimony or produce books, papers, or other evidence bearing on the hearing. Refusal to obey such an order shall constitute contempt of court.

(g) If, after due notice, the person against whom the action is contemplated fails or refuses to appear, a board may hear and determine the matter.

(h) A board shall issue its final decision in writing within 90 days after conducting a hearing.

(i) A board may delegate its authority under this subchapter to hold hearings and issue final decisions to a panel of 3 or more members of the board. Final decisions of a hearing panel shall be considered final decisions of the board for purposes of appeal to the District of Columbia Court of Appeals, except that the person against whom an action is contemplated may ask for a rehearing before the full board. If a rehearing before the full board is requested, no appeal to the District of Columbia Court of Appeals shall be permitted until the full board has issued a ruling.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.22. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For

## § 47-2853.23. Appeal and review.

Any person aggrieved by a final decision of a board may appeal the decision to the District of Columbia Court of Appeals pursuant to § 2-510.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.23. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.  
**Legislative history of Law 12-261.** — For

## § 47-2853.24. Reinstatement of suspended or revoked license.

(a) Except as provided in subsection (b) of this section, a board may reinstate the license or privilege of a person whose license or privilege has been suspended or revoked by the board only in accordance with:

- (1) The terms and conditions of the order of suspension or revocation; or
- (2) A final judgment or order in any proceeding for review.

(b)(1) If an order of suspension or revocation was based on the conviction of a crime which bears directly on the fitness of the person to be licensed, and the conviction subsequently is overturned at any stage of an appeal or other post-conviction proceeding, the suspension or revocation shall end when the conviction is overturned.

(2) After the process of review is completed, the clerk of the court issuing the final disposition of the case shall notify the board or the Mayor of that disposition.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.24. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.  
**Legislative history of Law 12-261.** — For

## § 47-2853.25. Licenses and certifications issued prior to this subchapter.

Any person who has been properly licensed or certified under any prior law or regulation of the District, has a valid license or certificate, and on the effective date of this subchapter is in the active practice of the occupation or profession for which he or she has been licensed or certified shall be deemed qualified to practice that occupation or profession, notwithstanding that such person does not meet the qualifications for licensure or certification set forth in this subchapter. The person shall be eligible to renew that license or certificate and continue to practice that occupation or profession as long as all current requirements for licensure or certification are met and unless disciplined as provided in this subchapter.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.25. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.  
**Legislative history of Law 12-261.** — For

## § 47-2853.26. False representation of authority to practice.

Unless authorized to practice an occupation or profession under this sub-



chapter, a person shall not represent to the public by title, description of services, methods, or procedures, or otherwise that the person is authorized to practice that occupation or profession in the District.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.26. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For 2801.

## § 47-2853.27. Fines and penalties; criminal violations.

(a) Any person who violates any provision of this subchapter shall, upon conviction, be subject to imprisonment not to exceed one year, a fine not to exceed \$10,000, or both.

(b) Any person who has been previously convicted under this subchapter shall, upon conviction, be subject to imprisonment not to exceed one year, a fine not to exceed \$25,000, or both.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.27. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For 2801.

## § 47-2853.28. Prosecutions.

(a) Prosecutions for violations of this subchapter shall be brought in the name of the District of Columbia by the Attorney General for the District of Columbia.

(b) In any prosecution brought under this subchapter, any person claiming an exemption from regulation under this subchapter shall have the burden of providing entitlement to the exemption.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; Apr. 13, 2005, D.C. Law 15-354, § 73(1)(9), 52 DCR 2638.)

**Prior Codifications.** — 1981 Ed., § 47-2853.28. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Effect of amendments.** — D.C. Law 15-354 substituted “Attorney General for the District of Columbia” for “Corporation Counsel”.

**Legislative history of Law 12-261.** — For

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

## § 47-2853.29. Fines and penalties; civil alternatives.

Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this subchapter, or any rules or regulations issued under the authority of this subchapter, pursuant to Chapter 18 of Title 2.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.29. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.  
**Legislative history of Law 12-261.** — For

## § 47-2853.30. Injunctions; unlawful practices.

(a) The Attorney General for the District of Columbia may bring an action in the Superior Court of the District of Columbia in the name of the District of Columbia to enjoin the unlawful practice of any occupation or profession or any other action which is grounds for the imposition of a criminal penalty or disciplinary action under this subchapter.

(b) Remedies under this section are in addition to criminal prosecution or any disciplinary action by a board.

(c) In any proceeding under this section, it shall not be necessary to prove that any person is personally injured by the action or actions alleged.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; Apr. 13, 2005, D.C. Law 15-354, § 73(l)(10), 52 DCR 2638.)

**Prior Codifications.** — 1981 Ed., § 47-2853.30. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Effect of amendments.** — D.C. Law 15-354 substituted “Attorney General for the District of Columbia” for “Corporation Counsel”.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

**Legislative history of Law 12-261.** — For

### PART A.

#### ACCOUNTANTS.

## § 47-2853.41. Definitions; scope of practice for accountants.

For the purposes of this part, the term:

(1) “Attest services” or “attestation services” means providing any of the following financial statement services:

(A) An audit or other engagement to be performed in accordance with the Statements on Auditing Standards;

(B) A review of a financial statement to be performed in accordance with the Statements on Standards for Accounting and Review Services;

(C) An examination of prospective financial information to be performed in accordance with the Statements on Standards for Attestation Engagements; and

(D) An engagement to be performed in accordance with the Auditing Standards of the Public Company Accounting Oversight Board.

(2) “Board” means the Board of Accountancy established under § 47-2853.06(b).

(3) “Certificate” means the certificate of certified public accountant.

(4) “Compilation service” means providing a service to be performed in accordance with Statements on Standards for Accounting and Review Services



that is presenting in the form of financial statements information that is the representation of management or owners without undertaking to express any assurance on the statements.

(5) “Firm” means a sole proprietorship, a corporation, a partnership, or any other form of organization.

(6) “Home office” means the location specified by the client as the address to which a service described in § 47-2853.49(d)(4) is directed.

(7) “Practice of certified public accounting” means providing accounting or consulting services under circumstances where there is an expectation of public confidence in the services, and attesting to the results, including:

(A) Expressing opinions on financial statements or audits;

(B) Reviewing financial statements and issuing reports in standard form on the statements;

(C) Compiling financial statements and issuing reports in standard form on the compilations; and

(D) Examining prospective financial information.

(8) “Principal place of business” means the office location designated by a certified public accountant for purposes of § 47-2853.49 and reciprocity.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; Dec. 2, 2011, D.C. Law 19-43, § 2(c), 58 DCR 8928.)

**Prior Codifications.** — 1981 Ed., § 47-2853.41.

**Effect of amendments.** — D.C. Law 19-43 rewrote the section, which formerly read:

“(a) For the purposes of this part, the term ‘Practice of Certified Public Accounting’ means providing accounting or consulting services under circumstances where there is an expectation of public confidence in such services, and attesting to the results, including (1) expressing opinions on financial statements (audits); (2) reviewing financial statements and issuing reports in standard form on such statements; (3) compiling financial statements and issuing

reports in standard form on such compilations; (4) examining prospective financial information.

“(b) For the purposes of this part, the term ‘certificate’ means the Certificate of certified public accountant.”

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 19-43.** — For history of Law 19-43, see notes under § 47-2853.06.

## § 47-2853.42. Eligibility requirements.

An applicant for licensure as a certified public accountant shall establish to the satisfaction of the Board of Accountancy that he or she:

(1) Is of good moral character;

(2) Is a resident of the District or has been regularly employed in the District for the immediate 6 months prior to the final date for accepting applications for the examinations, or, in the case of an employee of a certified public accountant or a firm of certified public accountants registered to practice in the District, has been a bona fide resident of a foreign country for a period of not less than 18 months preceding the date of filing an application and is not qualified to be examined and to receive a certificate of certified public accountant in the state of last residence solely because of the aforesaid residence abroad;

(3) Has passed an examination in accounting and auditing and such related subjects as the Board shall determine to be appropriate;

(4)(A) Holds a baccalaureate degree with a concentration in accounting conferred by a college or university recognized by the Board or holds that which the Board determines to be substantially the equivalent thereof; or

(B) Holds a baccalaureate degree acceptable to the Board supplemented with the equivalent of an accounting concentration including related courses in other areas of business administration; and

(C) For applicants receiving a baccalaureate degree after January 1, 2000, in addition to meeting the requirements of either subparagraphs (A) or (B) of this paragraph, possesses 150 semester hours of college education.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; June 16, 2006, D.C. Law 16-130, § 2(c), 53 DCR 4718.)

**Prior Codifications.** — 1981 Ed., § 47-2853.42.

**Effect of amendments.** — D.C. Law 16-130, in par. (2), substituted “the examinations” for “the written examinations”; in par. (3), substituted “an examination” for “a written examination”.

**Temporary Amendment of Section.** — Section 2(d) of D.C. Law 16-101, in par. (2), substituted “examination” for “written examinations”; and in par. (3), substituted “an examination.” for “a written examination”.

Section 4(b) of D.C. Law 16-101 provided that

the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(d) of Non-Health Related Occupations and Professions Licensure Emergency Act of 2006 (D.C. Act 16-255, January 26, 2006, 53 DCR 763).

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 16-130.** — For Law 16-130, see notes following § 47-2853.06.

## § 47-2853.43. Certain representations prohibited.

(a) Except as provided in § 47-2853.49 and as permitted by the Board pursuant to subsection (b) of this section, no person shall assume or use the title or designation “certified public accountant” or the abbreviation “CPA” or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the person is a certified public accountant, unless the person has received a license as a certified public accountant under this subchapter and holds a valid permit to practice as a certified public accountant in the District. No firm shall assume or use the title or designation “certified public accountant” or the abbreviation “CPA” or any other title, designation, words, letters, abbreviation, sign, card, or device tending to indicate that the firm is composed of certified public accountants unless the firm is registered as a firm of certified public accountants and holds a valid permit under § 47-2853.47, and all offices of such firm in the District for the practice of public accounting are maintained and registered as required by § 47-2853.44, or unless the firm is exempt from registration under § 47-2853.44(a)(2) or (3). No person shall assume or use the title or designation “public accountant” or any other title, designation, words, letters, abbreviation, sign, card or device tending to indicate that such person is a public accountant unless that person is licensed as a certified public accountant under this part.

(b) No firm shall assume or use the title or designation “public accountant” or any other title, designation, words, letters, abbreviation, sign, card, or



device tending to indicate that the firm is composed of public accountants unless it is a firm of public accountants or a firm of certified public accountants and holds a valid permit issued in accordance with § 47-2853.47, and all offices of the firm in the District for the practice of public accounting are maintained and registered as required under § 47-2853.44, or unless the firm is exempt from registration under § 47-2853.44(a)(2) or (3).

(c) No person or firm shall assume or use the title or designation “certified accountant,” “chartered accountant,” “enrolled accountant,” “licensed accountant,” “registered accountant,” “accredited accountant,” or any other title or designation likely to be confused with “certified public accountant” or “public accountant,” or any of the abbreviations “CA,” “PA,” “RA,” “LA,” or “AA,” or similar abbreviations likely to be confused with “CPA”; provided, however, that anyone who holds a valid permit issued under the special rules in § 47-2853.47, or anyone who holds a practice privilege pursuant to § 47-2853.49, may hold himself out to the public as an “accountant” or “auditor.”

(d)(1) No person shall sign or affix his or her name or any trade or assumed name used by the person in his or her profession or business to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing financial information or facts concerning compliance with conditions established by law or contract, including, but not limited to, statutes, ordinances, regulations, grants, loans, and appropriations, together with any wording accompanying or contained in the opinion or certificate which indicates that the person is either an accountant or an auditor or has expert knowledge in accounting or auditing, unless the person holds a valid permit issued by the Board, or unless the person holds a practice privilege pursuant to § 47-2853.49.

(2) The provisions of this subsection shall not prohibit any officer, employee, partner, or principal of any organization from affixing his or her signature to any statement or report in reference to the affairs of the organization with any wording designating the position, title, or office which he or she holds in the organization nor shall the provisions of this subsection prohibit any act of a public official or public employee in the performance of his or her official duties.

(e) No person shall sign or affix a firm name to any opinion or certificate attesting in any way to the reliability of any representation or estimate in regard to any person or organization embracing financial information or facts respecting compliance with conditions established by law or contract, including, but not limited to, statutes, ordinances, regulations, grants, loans, and appropriations, together with any wording accompanying or contained in the opinion or certificate which indicates that the firm is composed of or employs accountants, auditors, or other persons having expert knowledge in accounting or auditing, unless the firm holds a valid permit issued by the Board and its offices in the District for the practice of public accounting are maintained and registered as required under § 47-2853.44, or a firm exempt from registration under § 47-2853.44(a)(2) or (3).

(f) No person shall assume or use the title or designation “certified public accountant” or “public accountant” in conjunction with names indicating or

implying that there is a firm or in conjunction with the designation “and Company” or “and Co.” or a similar designation if there is in fact no bona fide firm registered under § 47-2853.44, or unless the firm is exempt from registration under § 47-2853.44(a)(2) or (3) provided, that a sole proprietor or partnership lawfully using such title or designation in conjunction with such names or designation under prior law may continue to do so.

(g) Notwithstanding any other provision of this section, it shall not be a violation of this section for a firm that does not hold a valid permit under § 47-2853.44 and that does not have an office in the District to provide its professional services in the District so long as it complies with the requirements of § 47-2853.44(a)(2) or (3), whichever is applicable.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; June 16, 2006, D.C. Law 16-130, § 2(d), 53 DCR 4718; Dec. 2, 2011, D.C. Law 19-43, § 2(d), 58 DCR 8928.)

**Prior Codifications.** — 1981 Ed., § 47-2853.43.

**Effect of amendments.** — D.C. Law 16-130 rewrote subsec. (a); and in subsec. (b) and par. (d)(1), substituted “§ ” for “§§ 47-2853.45 and”.

D.C. Law 19-43, in subsec. (a), substituted “Except as provided in § 47-2853.49 and as permitted by the Board” for “Except as permitted by the Board”, substituted “under this subchapter and holds” for “under this subchapter, holds”; substituted “public accountants in the District” for “public accountants in the District, and all of the person’s offices in the District for the practice of public accounting are maintained and registered as required under § 47-2853.45”; in subsec. (b), substituted “under § 47-2853.44, or unless the firm is exempt from registration under § 47-2853.44(a)(2) or (3)” for “under § 47-2853.46”; in subsec. (c), substituted “, or anyone who holds a practice privilege pursuant to § 47-2853.49,” for “and all of whose offices in the District for the practice of public accounting are maintained and registered as required by the special rules”; in subsec. (d)(1), substituted “, or unless the person holds a practice privilege pursuant to § 47-2853.49” for “and all of the person’s offices in the District for the practice of public accounting are maintained and registered as required by § 47-2853.46”; in subsecs. (e) and (f), substi-

tuted “§ 47-2853.44, or unless the firm is exempt from registration under § 47-2853.44(a)(2) or (3)” for “§§ 47-2853.44 and 47-2853.46”; and added (g).

**Temporary Amendment of Section.** — Section 2(e) of D.C. Law 16-101, in subsec. (a), deleted “and 47-2853.45” and “, 47-2853.45,” and substituted “licensed as a certified public accountant under this part.” for the colon at the end of the lead-in text; repealed subsecs. (a)(1) and (a)(2); in subsec. (b), substituted “§ ” for “§§ 47-2853.45 and”; and, in subsec. (d)(1), substituted “§ ” for “§§ 47-2853.45 and”.

Section 4(b) of D.C. Law 16-101 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(e) of Non-Health Related Occupations and Professions Licensure Emergency Act of 2006 (D.C. Act 16-255, January 26, 2006, 53 DCR 763).

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 16-130.** — For Law 16-130, see notes following § 47-2853.06.

**Legislative history of Law 19-43.** — For history of Law 19-43, see notes under § 47-2853.06.

## § 47-2853.44. Registration of firms of certified public accountants.

(a)(1) The Board shall register firms of certified public accountants that demonstrate their qualifications in accordance with this section.

(2) The following entities must register under this section:

(A) Any firm with an office in the District performing attest services as defined in § 47-2853.41(1) or engaging in the practice of certified public accounting as defined in § 47-2853.41(7);



(B) Any firm with an office in the District that uses the title “CPA” or “CPA firm”; and

(C) Any firm that does not have an office in the District but performs attest services defined in § 47-2853.41(1) for a client having its home office in the District.

(3) A firm that does not have an office in the District may perform attest services as defined in § 47-2853.41(1) for a client having its home office in the District, may otherwise engage in the practice of certified public accounting, and may use the title “CPA” or “CPA firm” without registering under this section or obtaining a permit under § 47-2853.47, if the firm:

(A) Has the qualifications described in subsection (b) of this section;

(B) Satisfies any requirements of the Board with respect to peer reviews; and

(C) Performs the services through an individual with practice privileges under § 47-2853.49.

(4) A firm that is not subject to the requirements of paragraphs (2) and (3) of this subsection may perform other professional services in the practice of certified public accounting in the District and may use the title “CPA” or “CPA firm” without registering under this section or obtaining a permit under § 47-2853.47, if the firm:

(A) Performs the services through an individual with practice privileges under § 47-2853.49; and

(B) Is lawfully able to perform the services in the state where the individual with practice privileges has his or her principal place of business.

(b) A firm registering with the Board as a firm of certified public accountants under subsection (a) of this section shall meet the following requirements:

(1) At least one member shall be a certified public accountant licensed and in good standing in the District or, in the case of a firm required to register under subsection (a)(2)(A) of this section, shall be an individual with practice privileges under § 47-2853.49;

(2) Each member, whose principal place of business is in the District and who performs professional services in the District shall be a certified public accountant licensed and in good standing in the District;

(3) Repealed;

(4) Notwithstanding any other provision of law and subject to the provisions of paragraph (5) of this subsection:

(A) At least a simple majority of the ownership interest and voting rights of all partners, officers, shareholders, members, or managers in the firm of certified public accountants shall be owned by individuals licensed as certified public accountants in the District or in any other state; and

(B) Partners, officers, shareholders, members, or managers whose principal place of business is in the District and who perform professional services in the District shall be licensed under this part.

(5) A firm of certified public accountants which includes owners who are not licensed under this part shall be subject to the following requirements:

(A) The firm shall designate an individual who is licensed in the District or, in the case of a firm required to register under subsection (a)(2)(A)

of this section, shall be an individual with practice privileges under § 47-2853.49 to be responsible for the proper registration of the firm and notify the Board.

(B) All owners who are not licensed in the District or in a state shall be active individual participants in the firm of certified public accountants or affiliated entities.

(C) The firm shall comply with all other requirements that the Board may impose by rule.

(6) A licensed individual, or individual with practice privileges, who is responsible for attestation or compilation services and signs, or authorizes another person to sign, the accountant's report on the financial statements on behalf of the firm shall meet the competency requirements set forth in the professional standards for such services.

(7) A licensed individual, or individual with practice privileges, who signs, or authorizes another person to sign, the accountants' report on the financial statements on behalf of the firm shall meet the competency requirements set forth in the professional standards.

(c) Subject to subsection (a)(4) of this section, a firm that is a corporation organized for the practice of certified public accounting shall also comply with Chapter 5 of Title 29, and any rules promulgated thereunder, governing the issuance, ownership, and transferability of shares and be in compliance with such regulations as may be issued for such corporations.

(d) A firm that is registered pursuant to this section and holds a permit issued by the Board, or that is exempt from holding a registration and permit under subsection (a)(2) and (3) of this section may use the words "certified public accountants" or the abbreviation "CPA" in connection with its firm name. A registered firm shall notify the Board within one month after the admission or withdrawal of a member or shareholder in practice in the District from any firm so registered. Firms shall not offer certified public accounting services unless registered pursuant to this section, except as provided in subsection (a)(2) and (3) of this section.

(e) An applicant firm for initial issuance or renewal of a permit to practice under this section shall register each office of the firm within the District with the Board and demonstrate that all attest and compilation services rendered in the District are under the charge of a person licensed under this part, or the corresponding provision of prior law or some other state.

(f) An applicant firm for initial issuance or renewal of permits under this section shall, in its application, list all states (including the District) in which the firm has applied for or has been issued permits as a CPA firm and list any past denial, revocation, or suspension of a permit by the District or any other state, and each licensee or applicant for a permit under this section shall notify the Board in writing, within 30 days after its occurrence, of any change in the identities of partners, officers, shareholders, members, or managers whose principal place of business is in the District, any change in the number or location of offices within the District, any change in the identity of the persons in charge of such offices, and any issuance, denial, revocation, or suspension of a permit by any other state.



(g) Firms that fall out of compliance with the provisions of this section due to changes in firm ownership or personnel shall take corrective action as quickly as possible. The Board may grant a reasonable period to take corrective action. Failure to bring the firm back into compliance within a reasonable period, as defined by the Board, shall result in the suspension or revocation of the firm permit.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; June 16, 2006, D.C. Law 16-130, § 2(e), 53 DCR 4718; July 2, 2011, D.C. Law 18-378, § 3(jj)(2), 58 DCR 1720; Dec. 2, 2011, D.C. Law 19-43, § 2(e), 58 DCR 8928.)

**Prior Codifications.** — 1981 Ed., § 47-2853.44.

**Effect of amendments.** — D.C. Law 16-130 rewrote the section.

D.C. Law 18-378, in par. (2), substituted “Chapter 5” for “Chapter 4”.

D.C. Law 19-43 redesignated subsecs. (a) to (f) as subsecs. (b) to (g); added subsec. (a); rewrote redesignated subsec. (b); in subsec. (d), substituted “issued by the Board, or that is exempt from holding a registration and permit under subsection (a)(2) and (3) of this section” for “issued by the Board”, and substituted “pursuant to this section, except as provided in subsection (a)(2) and (3) of this section”, for “pursuant to this section”.

**Temporary Amendment of Section.** — Section 2(f) of D.C. Law 16-101 amended section to read as follows:

“(a) A firm engaged in the District in the practice of certified public accounting may register with the Board as a firm of certified public accountants if it meets the following requirements:

“(1) At least one member thereof is a certified public accountant of the District in good standing;

“(2) Each member thereof must be a certified public accountant of the District or of a state in good standing;

“(3) At least one member or the resident manager in charge of an office of the firm in the District and each member thereof personally engaged within the District in the practice of public accounting as a member thereof must be a certified public accountant of the District in good standing;

“(4) Notwithstanding any other provision of law:

“(A) At least 51% of the firm of certified public accountants, in terms of financial interests and voting rights of all partners, officers, shareholders, members, or managers, belongs to individuals licensed as certified public accountants in the District or in any other state;

“(B) Partners, officers, shareholders, members, or managers, whose principal place of business is in the District, or who perform

professional services in the District, hold a valid license issued under this part; and

“(C) Although firms may include non-licensee owners, the firm and its ownership must comply with rules promulgated by the Board;

“(5) Any firm of certified public accountants as defined in this part may include non-licensee owners; provided, that:

“(A) The firm designates a licensee of the District who is responsible for the proper registration of the firm and identifies that individual to the Board;

“(B) All non-licensee owners are active individual participants in the firm of certified public accountants or affiliated entities; and

“(C) The firm complies with such other requirements as the Board may impose by rule;

“(6) Any individual licensee who is responsible for supervising services requiring licensure as a certified public accountant and signs or authorizes someone to sign the accountant’s report on the financial statements on behalf of the firm shall meet the competency requirements set out in the professional standards for such services; and

“(7) Any individual licensee who signs or authorizes someone to sign the accountants’ report on the financial statements on behalf of the firm shall meet the competency requirement of paragraph (6) of this subsection.”

“(b) Subject to the exception provided in subsection (a)(4) of this section, a firm that is a corporation organized for the practice of certified public accounting shall also comply with the provisions of Chapter 4 of Title 29, governing the issuance, ownership, and transferability of shares and be in compliance with such regulations as may be issued for such corporations.

“(c) A firm which is registered pursuant to this section and which holds a permit issued by the Board may use the words “certified public accountants” or the abbreviation “CPA” in connection with its firm name. Notification shall be given to the Board within one month after the admission or withdrawal of a member or shareholder in practice in the District from any firm so registered. Firms shall not offer certified

public accounting services unless registered pursuant to this section.

“(d) An applicant firm for initial issuance or renewal of a permit to practice under this section shall be required to register each office of the firm within the District with the Board and to show that all attest and compilation services as defined herein rendered in the District are under the charge of a person holding a valid license in the District issued under Subchapter I-B, or the corresponding provision of prior law or some other state.

“(e) An applicant firm for initial issuance or renewal of permits under this section shall, in its application, list all states (including the District) in which the firm has applied for or holds permits as a certified public accounting firm and list any past denial, revocation, or suspension of a permit by the District or any other state, and each holder of or applicant for a permit under this section shall notify the Board in writing, within 30 days after its occurrence, of any change in the identities of partners, officers, shareholders, members, or managers whose principal place of business is in the District, any change in the number or location of offices within the District, any change in the identity of the persons in charge of such offices, and any issuance, denial, revocation, or suspension of a permit by any other state.

“(f) Firms that fall out of compliance with the provisions of this section due to changes in firm ownership or personnel, after receiving or renewing a permit, shall take corrective action to bring the firm back into compliance as quickly as possible. The Board may grant a reasonable period of time for a firm to take such corrective action. Failure to bring the firm back into compliance within a reasonable period as defined by the Board shall result in the suspension or revocation of the firm permit.”

Section 4(b) of D.C. Law 16-101 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(f) of Non-Health Related Occupations and Professions Licensure Emergency Act of 2006 (D.C. Act 16-255, January 26, 2006, 53 DCR 763).

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 16-130.** — For Law 16-130, see notes following § 47-2853.06.

**Legislative history of Law 18-378.** — For history of Law 18-378, see notes under § 47-1802.01.

**Legislative history of Law 19-43.** — For history of Law 19-43, see notes under § 47-2853.06.

## § 47-2853.45. Registration of firms of public accountants. [Repealed].

Repealed.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; June 16, 2006, D.C. Law 16-130, 2(f), 53 DCR 4718.)

**Prior Codifications.** — 1981 Ed., § 47-2853.45.

Temporary Repeal of Section Section 2(g) of D.C. Law 16-101 repealed this section.

Section 4(b) of D.C. Law 16-101 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 2(g) of Non-

Health Related Occupations and Professions Licensure Emergency Act of 2006 (D.C. Act 16-255, January 26, 2006, 53 DCR 763).

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 16-130.** — For Law 16-130, see notes following § 47-2853.06.

## § 47-2853.46. Offices; annual registration. [Repealed].

Repealed.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; June 16, 2006, D.C. Law 16-130, § 2(g), 53 DCR 4718; Mar. 25, 2009, D.C. Law 17-353, §§ 117, 183, 56 DCR 1117; December 2, 2011, D.C. Law 19-43, § 2(f), 58 DCR 8928.)



**Prior Codifications.** — 1981 Ed., § 47-2853.46.

**Temporary Amendment of Section.** — Section 2(h) of D.C. Law 16-101 deleted “; or by a public accountant or a firm of public accountants;”.

Section 4(b) of D.C. Law 16-101 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(h) of Non-Health Related Occupations and Professions Licensure Emergency Act of 2006 (D.C. Act 16-255, January 26, 2006, 53 DCR 763).

For temporary (90 day) repeal of section 3 of D.C. Law 19-43, see § 7010 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) repeal of section 3 of

D.C. Law 19-43, see § 7010 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 16-130.** — For Law 16-130, see notes following § 47-2853.06.

**Legislative history of Law 17-353.** — For Law 17-353, see notes following § 47-308.

**Legislative history of Law 19-43.** — For history of Law 19-43, see notes under § 47-2853.06.

**Editor’s notes.** — Section 3 of D.C. Law 19-43 provided: “Sec. 3. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.”

## § 47-2853.47. Permits; issuance.

(a) Permits to engage in the practice of certified public accounting in the District shall be issued by the Board to holders of licenses as certified public accountants issued by the Board who have furnished evidence satisfactory to the Board of compliance with the renewal requirements of this subchapter and to persons or firms as required by this subchapter.

(b) Repealed.

(c) Holders of licenses issued by the Board may be required as a condition of the issuance of a permit pursuant to this section to demonstrate, in accordance with the regulations issued by the Board, experience of not fewer than 2 years in either:

(1) Auditing books and accounts of other persons in accordance with generally accepted auditing standards;

(2) Reviewing financial statements and supporting material covering the financial conditions and operations of private business entities to determine the reliability and fairness of the financial reporting and compliance with generally accepted accounting principles;

(3) Such other experience including auditing and accounting experience in a governmental agency as the Board in its discretion regards as qualifying experience; or

(4) Any combination of paragraphs (1) through (3) of this subsection.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; June 16, 2006, D.C. Law 16-130, § 2(h), 53 DCR 4718; Dec. 2, 2011, D.C. Law 19-43, § 2(f), 58 DCR 8928.)

**Prior Codifications.** — 1981 Ed., § 47-2853.47.

**Effect of amendments.** — D.C. Law 16-130, in subsec. (a), substituted “certified public accounting” for “public accounting”.

D.C. Law 19-43 repealed subsec. (b), which read as follows: “(b) To be eligible for permits all

offices in the District of the certificate holder or registrant must be maintained and registered as required by this subchapter.”

**Temporary Amendment of Section.** — Section 2(i) of D.C. Law 16-101, in par. (a), substituted “certified public accounting” for “public accounting”.

Section 4(b) of D.C. Law 16-101 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(i) of Non-Health Related Occupations and Professions Licensure Emergency Act of 2006 (D.C. Act 16-255, January 26, 2006, 53 DCR 763).

**Legislative history of Law 12-261.** — For

legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 16-130.** — For Law 16-130, see notes following § 47-2853.06.

**Legislative history of Law 19-43.** — For history of Law 19-43, see notes under § 47-2853.06.

## § 47-2853.48. Actions against firms.

(a) After a notice and hearing as provided in this subchapter, the Board shall revoke the registration and permit to practice of a firm if at any time the firm does not meet all the qualifications prescribed by the provision of this subchapter under which it qualified for registration.

(b) After a notice and hearing as provided in this subchapter, the Board may:

- (1) Revoke or suspend the registration of a firm;
- (2) Revoke, suspend, or refuse to renew the permit of a firm to practice; or
- (3) Censure the holder of any such permit for any of the causes enumerated in § 47-2853.17 or for any of the following additional causes:

(A) The revocation or suspension of the certificate of registration or the revocation, suspension, or refusal to renew the permit to practice of any member; or

(B) The cancellation, revocation, suspension, or refusal to renew the authority of the firm, or any member thereof, to practice public accounting in any state for any cause other than the failure to pay an annual registration fee in such state.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.48.

**Legislative history of Law 12-261.** — For

legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

## § 47-2853.49. Substantial equivalency; practice privilege.

(a) The Board, or its designee, shall make a determination of whether the education, examination, and experience requirements contained in the statutes and administrative rules of another jurisdiction are comparable to, or exceed, the education, examination, and experience requirements contained in the Uniform Accountancy Act, approved by the NASBA Board of Directors on July 7, 2007 ([http://www.nasba.org/862571B900737CED/60C85E6667EE42F5862573E6004F3E9D/\\$file/UAA%20Fifth%20Edition%20Final.pdf](http://www.nasba.org/862571B900737CED/60C85E6667EE42F5862573E6004F3E9D/$file/UAA%20Fifth%20Edition%20Final.pdf)) (“UAA”) or that an individual certified public accountant’s (“CPA”) education, examination, and experience qualifications are comparable to or exceed the education, examination, and experience requirements contained in the UAA. In making its determination, the Board, or its designee, shall take into account the qualifications without regard to the sequence in which experience, education, or examination requirements were attained.

(b) An individual whose principal place of business is not in the District



shall be presumed to have qualifications substantially equivalent to the District's qualifications and shall have all the privileges of licensees and permit holders of the District without the need to obtain a license under § 47-2853.42 or a permit under § 47-2853.47, if:

(1) The individual holds a valid license as a CPA from any state that the NASBA National Qualification Appraisal Service has verified to be in substantial equivalence with the CPA licensure requirements of the AICPA/NASBA Uniform Accountancy; or

(2) The individual holds a valid license as a CPA from any state that the NASBA National Qualification Appraisal Service has not verified to be in substantial equivalence with the CPA licensure requirements of the UAA, but the individual has obtained from the NASBA National Qualification Appraisal Service verification that the individual's CPA qualifications are substantially equivalent to the CPA licensure requirements of the UAA. Any individual who passed the Uniform CPA Examination and holds a valid license issued by any state prior to January 1, 2012, may be exempted by the Board from the education requirement in section 5(c)(2) of the UAA for purposes of this section.

(c) Except as provided in this part, an individual granted practice privileges under this section, who offers or renders professional services, whether in person or by mail, telephone, or electronic means pursuant to this part, need not provide notice or other submission to any individual.

(d) An individual licensee of another state exercising the privilege afforded under this section and the firm that employs the licensee shall simultaneously consent, as a condition of the grant of the privilege, to the following:

(1) The personal and subject matter jurisdiction and disciplinary authority of the Board;

(2) Compliance with this part, the generally applicable provisions of this subchapter, and the Board's rules;

(3) In the event the license from the state of the individual's principal place of business is no longer valid, the cessation of the offering or rendering of professional services in the District, individually and on behalf of a firm; and

(4) The appointment of the state board that issued the license as the licensee's agent upon whom process may be served in any action or proceeding by the Board against the licensee.

(e)(1) An individual who has been granted practice privileges under this section, who performs any of the services listed in paragraph (2) of this subsection, and who performs the services for an entity with its home office in the District, may only perform the services through a firm that has obtained a registration under § 47-2853.44 and a permit under § 47-2853.47.

(2) For purposes of paragraph (1) of this subsection, the services performed are any of the following:

(A) Any financial statement audit or other engagement to be performed in accordance with Statements on Auditing Standards;

(B) Any examination of prospective financial information to be performed in accordance with Statements on Standards for Attestation Engagements; or

(C) Any engagement to be performed in accordance with Public Company Accounting Oversight Board Auditing Standards.

(f) An individual who has been granted practice privileges under this section and who performs services for which a firm permit is required under subsection (e) of this section shall not be required to obtain a license under § 47-2853.42 or a permit under § 47-2953.47 [§ 47-2853.47].

(g) A permit holder of the District offering or rendering services or using their CPA title in a state shall be subject to disciplinary action in the District for an act committed in the state for which the permit holder would be subject to discipline for the act committed in the state. The Board shall investigate any complaint made by a board of accountancy of a state.

(Dec. 2, 2011, D.C. Law 19-43, § 2(g), 58 DCR 8928.)

**Emergency legislation.** — For temporary (90 day) repeal of section 3 of D.C. Law 19-43, see § 7010 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) repeal of section 3 of D.C. Law 19-43, see § 7010 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

**Legislative history of Law 19-43.** — For history of Law 19-43, see notes under § 47-2853.06.

**Editor's notes.** — Section 3 of D.C. Law 19-43 provided: "Sec. 3. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan."

## PART B.

### ASBESTOS WORKERS.

#### § 47-2853.51. Scope of practice for asbestos workers.

For the purposes of this part, an "asbestos worker" is someone licensed under this subchapter and by the federal government to abate asbestos and asbestos materials as defined in subchapter VI of Chapter 1 of Title 8.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.51.

**Legislative history of Law 12-261.** — For

legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

#### § 47-2853.52. Eligibility requirements.

An applicant for a license as an asbestos worker shall establish to the satisfaction of the Board of Industrial Trades that the applicant:

- (1) Has successfully completed a course of instruction on asbestos abatement that has been approved by the Board; or
- (2) Currently holds a valid license in asbestos abatement from the federal government; and
- (3) Has provided such additional evidence as the Board or the federal government has determined is necessary for the occupation of asbestos worker.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)



**Prior Codifications.** — 1981 Ed., § 47-2853.52. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For 2801.

### § 47-2853.53. Certain representations prohibited.

Unless licensed as an asbestos worker under this subchapter, no person shall use the term “asbestos worker” or hold himself or herself out, directly or indirectly, as qualified to abate asbestos or asbestos materials.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.53. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For 2801.

## PART C.

### ARCHITECTS.

### § 47-2853.61. Scope of practice for architects.

For the purposes of this part, the term “Practice of architecture” means rendering or offering to render services in connection with the design and construction, enlargement, or alteration of a structure or group of structures that have as their principal purpose human occupancy or habitation, as well as the space within and surrounding these structures. These services include planning and providing studies, designs, drawings, specifications, and other technical submissions, and the administration of construction contracts. The practice of architecture does not include the practice of engineering, as defined in § 47-2853.131, although an architect may perform engineering work that is incidental to the practice of architecture.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.61. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For 2801.

## CASE NOTES

### In general.

In suit that was brought by architect not licensed to practice architecture in District of Columbia to recover for services that she provided within the District on breach of contract or quantum meruit theory, Court of Appeals would certify to District of Columbia Court of Appeals, as question of extreme public importance, the question of whether, under District of Columbia law, an architect was barred from recovering on contract to perform architectural

services in the District or in quantum meruit for architectural services rendered in the District because architect began negotiating for contract, entered into contract, or performed such services while licensed to practice architecture in another jurisdiction, but not in the District. *Sturdza v. Gov't of the United Arab Emirates*, 281 F.3d 1287, 2002 U.S. App. LEXIS 3650 (C.A.D.C.2002), remanded by 2002 U.S. App. LEXIS 11470 (D.C. Cir. June 6, 2002).

§ 47-2853.62. **Eligibility requirements.**

An applicant for a license as an architect shall establish to the satisfaction of the Board of Architecture and Interior Designer that the applicant:

- (1) Is of good moral character;
- (2) Is a graduate of a degree program in architecture accredited by an accrediting institution prescribed by rule, or has completed an education program in architecture prescribed by rule as the equivalent of an accredited professional architectural degree program;
- (3) Has passed an examination on the practice of architecture prescribed by rule; and
- (4) Meets any other requirements established by rule to ensure that the applicant has had the proper training, experience, and qualifications to practice architecture.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.62. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For

§ 47-2853.63. **Certain representations prohibited.**

Unless licensed to practice architecture under this subchapter, no person shall engage, directly or indirectly, in the practice of architecture in the District or use the title “architect,” “registered architect,” “licensed architect,” “architectural designer,” or display or use any words, letters, figures, titles, signs, cards, advertisements, or any other symbols or devices indicating, or tending to indicate, that the person is an architect or is practicing architecture.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.63. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For

PART D.

BARBERS.

§ 47-2853.71. **Scope of practice for barbers.**

For the purposes of this part, the term “practice of barbering” means providing or offering to the general public for a fee any of the following services solely for cosmetic purposes: cutting, dressing, singeing, shampooing, styling, or similar work performed upon the face, hair, hairpiece, or wig of a person; shaving or trimming of facial hair of a person; or massaging or applying cosmetic preparations to the face, neck, or scalp of a person. The practice of barbering shall not include manicuring, electrolysis, or the braiding or weaving of hair.



(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.71. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For

### § 47-2853.72. Eligibility requirements.

An applicant for an occupational license as a barber shall establish to the satisfaction of the Board of Barber and Cosmetology that the applicant:

(1) Has passed the examination or examinations required by the Board; and

(2) Meets any other requirements established by rule to ensure that the applicant has had the proper training and is otherwise qualified to practice the occupation, manage a facility where such occupation is performed, own such a facility or teach the occupation.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.72. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For

### § 47-2853.73. Certain representations prohibited.

Unless licensed under this subchapter, no person may use the term “barber” or imply that he or she is licensed to engage in the practice of barbering in the District.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.73. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For

## PART E.

### COSMETOLOGISTS.

### § 47-2853.81. Scope of practice for cosmetologists.

For the purposes of this part, the term “practice of cosmetology” means providing or offering to the general public for a fee any of the following services solely for cosmetic purposes: bleaching, braiding, coloring, curling, cutting, dressing, eyebrow arching, the use of devices or chemicals to straighten, curl, or wave hair, shampooing, singeing, styling, weaving, or similar work performed upon the face, hair, hairpiece, or wig of a person; electrolysis; esthetics; and manicuring. The practice of cosmetology shall not include shaving or trimming the beard or moustache of a person.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.81. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.  
**Legislative history of Law 12-261.** — For 2801.

§ 47-2853.82. Eligibility requirements.

An applicant for an occupational license as a cosmetologist, cosmetologist-manager, or cosmetologist-owner or any subcategory of specialty cosmetologist, shall establish to the satisfaction of the Board of Barber and Cosmetology that the applicant:

- (1) Has passed the examination or examinations required by the Board; and
- (2) Meets any other requirements established by rule to ensure that the applicant has had the proper training and is otherwise qualified to practice the occupation, manage a facility where such occupation is performed, own such a facility or teach the occupation.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.82. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.  
**Legislative history of Law 12-261.** — For 2801.

§ 47-2853.83. Certain representations prohibited.

Unless licensed under this subchapter, no person shall use the terms “cosmetologist,” “licensed cosmetologist,” “cosmetologist-manager,” “cosmetologist-owner,” or words describing any cosmetology specialty (“manicurist,” “braider,” etc.) that may be defined by the Board with the intent to imply that the person is authorized to perform such services in the District.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.83. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.  
**Legislative history of Law 12-261.** — For 2801.

PART F.

ELECTRICIANS.

§ 47-2853.91. Scope of practice for electricians.

(a) For the purposes of this part, the term “electrician” means any person who designs, installs, maintains, alters, converts, changes, repairs, removes, or inspects electrical wiring, equipment, conductors, or systems in buildings or structures or on public and private space for the transmission, distribution, or use of electrical energy for power, heat, light, radio, television, signaling, communications, or any other purpose, except elevators, platform lifts, stairway chair lifts, manlifts, conveyors, escalators, dumbwaiters, material lifts, automated people movers, and other related conveyances.



(b) This part shall not apply to an elevator contractor or mechanic licensed under part F-i of this subchapter if the elevator contractor or mechanic is performing work incidental to work licensed under part F-i of this subchapter.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; Mar. 3, 2010, D.C. Law 18-111, § 2151(d), 57 DCR 181.)

**Prior Codifications.** — 1981 Ed., § 47-2853.91.

**Effect of amendments.** — D.C. Law 18-111 rewrote the section, which had read as follows: “For the purposes of this part, the term ‘electrician’ means any person who designs, installs, maintains, alters, converts, changes, repairs, removes or inspects electrical wiring, equipment, conductors, or systems in buildings or structures or on public and private space for the transmission, distribution or use of electrical energy for power, heat, light, radio, television, signaling, communications or any other purpose.”

**Emergency legislation.** — For temporary

(90 day) amendment of section, see § 2151(d) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2151(d) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-305.02.

## § 47-2853.92. Eligibility requirements.

(a) An applicant to be an apprentice electrician shall be registered by the Mayor, without examination, upon providing such information as may be required by the Board of Industrial Trades and payment of appropriate fees. An apprentice electrician shall work only under the direct personal supervision and control of a licensed master electrician or licensed master electrician specialist.

(b) Except as provided in subsection (b-1) of this subsection, an applicant for licensure as a journeyman electrician or a master electrician limited (low voltage) shall establish to the satisfaction of the Board of Industrial Trades that he or she has satisfactorily completed a class on Title 12C of the District of Columbia Municipal Regulations or equivalent code within 2 years prior to submittal of the application and has:

(1) Worked as an apprentice electrician for at least 8,000 hours over at least 4 years;

(2) Graduated from an accredited college or university with a degree in electrical engineering, and has at least 2 years of practical experience in electrical work, which has been certified by a licensed master electrician; or

(3) Has comparable experience or a combination of education and experience that the Board deems equivalent to the above; and

(4) Has supplied any additional evidence as the Board determines is necessary for the particular specialty license sought by the applicant.

(b-1)(1) The Board shall accept, in lieu of examination and the requirements set forth in subsection (b) of this section, a certificate from a national certifying organization certifying that the applicant for licensure as a journeyman electrician:

(A) Has passed the organization’s required examination;

(B) Is designated by the organization as a journeyman electrician; and

(C) Has not been disciplined or otherwise disqualified by the organization.

(2) For the purposes of this subsection, the term “national certifying organization” shall include a nationally recognized trade organization or labor union.

(c) An applicant for licensure as a master electrician shall establish to the satisfaction of the Board that the applicant has met the requirements of subsection (b) of this section and in addition has worked as a journeyman electrician for at least 4 years.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; Mar. 3, 2010, D.C. Law 18-111, § 2151(e), 57 DCR 181; Feb. 24, 2012, D.C. Law 19-82, § 2(b), 58 DCR 11022.)

**Prior Codifications.** — 1981 Ed., § 47-2853.92.

**Effect of amendments.** — D.C. Law 18-111 rewrote the lead-in text of subsec. (b), which had read as follows: “(b) An applicant for licensure as a journeyman electrician, a master electrician limited (low voltage), or a master electrician limited (elevator/escalator), shall establish to the satisfaction of the Board of Industrial Trades that he or she has satisfactorily completed a class on the National Electrical Code within two years prior to submittal of the application and has:”.

D.C. Law 19-82, in subsec. (b), substituted “Except as provided in subsection (b-1) of this subsection, an” for “An”; and added subsec. (b-1).

**Emergency legislation.** — For temporary

(90 day) amendment of section, see § 2151(e) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2151(e) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-305.02.

**Legislative history of Law 19-82.** — For history of Law 19-82, see notes under § 47-2853.12.

## § 47-2853.93. Certain representations prohibited.

Unless licensed in accordance with this subchapter, no person shall use the words or terms “electrician,” “licensed electrician,” “master electrician,” or any words describing an electrician specialty authorized by the Board that imply that the person is authorized to perform the services of an electrician in the District.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.93.

**Legislative history of Law 12-261.** — For

legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.



## PART Fi.

## ELEVATOR MAINTENANCE.

**§ 47-2853.95. Scope of practice for elevator contractors, elevator mechanics, and elevator inspectors.**

(a) For the purposes of this part, the term:

(1) “Elevator contractor” means any sole proprietor, firm, or corporation who, for compensation, engages in erecting, constructing, installing, altering, servicing, repairing, or performing tests of elevators, platform lifts, stairway chair lifts, manlifts, conveyors, escalators, dumbwaiters, material lifts, automated people movers, and other related conveyances.

(2) “Elevator mechanic” means any individual who engages in erecting, constructing, installing, altering, servicing, repairing, or testing elevators, platform lifts, stairway chair lifts, manlifts, conveyors, escalators, dumbwaiters, material lifts, automated people movers, and other related conveyances.

(3) “Elevator inspector” means any individual who engages in performing inspections of elevators, platform lifts, stairway chair lifts, manlifts, conveyors, escalators, dumbwaiters, material lifts, automated people movers, and other related conveyances.

(b) This part shall not apply to an electrician licensed under part F of this subchapter if the work performed by the electrician is work for which he or she is licensed to perform under part F of this subchapter.

(Mar. 3, 2010, D.C. Law 18-111, § 2151(f), 57 DCR 181.)

**Emergency legislation.** — For temporary (90 day) addition, see § 2151(f) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see § 2151(f) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 18-111.** — Law

18-111, the “Fiscal Year 2010 Budget Support Act of 2009”, was introduced in Council and assigned Bill No. 18-203, which was referred to the Committee on the Whole. The bill was adopted on first and second readings on May 12, 2009, and September 22, 2009, respectively. Signed by the Mayor on December 18, 2009, it was assigned Act No. 18-255 and transmitted to both Houses of Congress for its review. D.C. Law 18-111 became effective on March 3, 2010.

**§ 47-2853.96. Eligibility requirements.**

(a) An applicant for licensure as an elevator contractor shall establish to the satisfaction of the Board that the applicant:

(1) Has in his or her employ individuals licensed under this part who perform the work described by the applicant in the application;

(2) Has complied with the bonding and insurance requirements established by rule; and

(3) Meets any other requirements established by rule.

(b)(1) An applicant for licensure as an elevator mechanic shall establish to the satisfaction of the Board that the applicant:

(A) Has passed the examination required by the Board; and

(B) Meets any other requirements established by rule.

(2) Until rules are promulgated pursuant to paragraph (1) of this subsection, the Board may issue a 2-year license to an applicant who has:

(A) A certificate of completion of an apprenticeship program for elevator mechanic registered with the Bureau of Apprenticeship Training, U.S. Department of Labor, the District of Columbia Apprenticeship Council, or an equivalent state's apprenticeship council;

(B) Worked as an elevator mechanic for 2 years in any combination of construction, maintenance, or repair without direct supervision and for an employer licensed to do business in the District, within the previous 3 years;

(C) A valid license from a state having standards substantially equal to those of the District; or

(D) Has passed the examination required by the Department of Consumer and Regulatory Affairs.

(c) An applicant for licensure as an elevator inspector shall establish to the satisfaction of the Board that the applicant:

(1) Meets the requirements of this subchapter;

(2) Meets the current ASME QEI-1, Standards for the Qualifications of Elevator Inspectors, or equivalent; and

(3) Meets any other requirement established by rule.

(Mar. 3, 2010, D.C. Law 18-111, § 2151(f), 57 DCR 181.)

**Emergency legislation.** — For temporary (90 day) addition, see § 2151(f) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see

§ 2151(f) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-2853.95.

## § 47-2853.97. Certain representations prohibited.

Unless licensed in accordance with this part, no person shall use the words or terms “elevator contractor,” “elevator mechanic,” “licensed elevator contractor,” “licensed elevator mechanic,” “elevator inspector,” “licensed elevator inspector,” or any words describing an elevator specialty licensed by the Board to imply that the person is authorized to perform the services of an elevator contractor, elevator mechanic, or elevator inspector in the District.

(Mar. 3, 2010, D.C. Law 18-111, § 2151(f), 57 DCR 181.)

**Emergency legislation.** — For temporary (90 day) addition, see § 2151(f) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see

§ 2151(f) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-2853.95.

## § 47-2853.98. Temporary license.

In the event of emergency circumstances, the Board may, pursuant to rule, issue a temporary license for a period not to exceed 30 days.



(Mar. 3, 2010, D.C. Law 18-111, § 2151(f), 57 DCR 181.)

**Emergency legislation.** — For temporary (90 day) addition, see § 2151(f) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see

§ 2151(f) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-2853.95.

## § 47-2853.99. Fees; rules.

(a) Notwithstanding any other provisions of this subchapter, including sections 47-2853.10 and 47-2853.11:

(1)(A) The fee for the issuance, renewal, or reinstatement of a license under this part shall be \$260; provided, that this fee shall not apply to elevator mechanics employed by the Washington Metropolitan Area Transit Authority.

(B) Application fees paid under this section shall not be refundable, even if the applicant withdraws his or her application for licensure, certification, or registration, or is found to be not qualified.

(2)(A) All fees collected under this part shall be deposited in the General Fund of the District of Columbia.

(b) On or before December 31, 2009, the Mayor, pursuant to Chapter 5 of Title 2, shall issue rules to implement the provisions of this part.

(Mar. 3, 2010, D.C. Law 18-111, § 2151(f), 57 DCR 181.)

**Emergency legislation.** — For temporary (90 day) addition, see § 2151(f) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see

§ 2151(f) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-2853.95.

## PART G.

### INTERIOR DESIGNERS.

## § 47-2853.101. Scope of practice for interior designers.

For the purposes of this part, the term “practice of interior design” means providing or offering to provide consultations, preliminary studies, drawings, specifications, or any related service for the design analysis, programming, space planning, or aesthetic planning of the interior of buildings, using specialized knowledge of interior construction, building systems and components, building codes, fire and safety codes, equipment, materials, and furnishings, in a manner that will protect and enhance the health, safety, and welfare of the public whether one or all of these services are performed either in person or as the directing head of an organization.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

## § 47-2853.102

TAXATION, LICENSING, PERMITS, ETC.

**Prior Codifications.** — 1981 Ed., § 47-2853.101. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For 2801.

## § 47-2853.102. Eligibility requirements.

An applicant for licensure as an interior designer shall establish to the satisfaction of the Board of Architecture and Interior Design that he or she:

- (1) Has passed the examination required by this subchapter; and
- (2) Meets any other requirements established by the Mayor by rule.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.102. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For 2801.

## § 47-2853.103. Certain representations prohibited.

(a) It shall be unlawful for any person who is not licensed as an interior designer to engage in the practice of interior design, to advertise as an interior designer, to use the title of “interior designer” or any other words, letters, figures, or other device for the purpose of implying, directly or indirectly, that the person is an interior designer.

(b) No company, partnership, association, corporation, or other similar organization shall use the title of “interior designer” unless interior design services rendered by or on behalf of the organization are in the responsible charge of a licensed interior designer.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.103. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For 2801.

## PART H.

### LAND SURVEYORS.

## § 47-2853.111. Scope of practice for land surveyors.

For the purposes of this part, the term “practice of land surveying” means providing professional services including consultation, investigation, testimony evaluation, expert technical testimony, planning, mapping, assembling and interpreting reliable scientific measurements and information relative to the location, size, shape or physical features of the earth, improvements on the earth, the space above the earth, or any part of the earth, and utilization and development of these facts and interpretation into an orderly survey map, plan, report, description, or project.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)



**Prior Codifications.** — 1981 Ed., § 47-2853.111. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For

## § 47-2853.112. Eligibility requirements.

An applicant for licensure as a land surveyor shall establish to the satisfaction of the Board of Professional Engineers that the applicant:

- (1) Is of good character and reputation;
- (2) Is a graduate of an accredited college or university with a degree in land surveying or other relevant curriculum, or has a combination of formal education and experience, that is acceptable to the Board;
- (3) Has passed an examination on the principles and practice of land surveying prescribed by rule or has passed any other examination issued by a national certifying organization or state that is acceptable to the Board; and
- (4) Meets any other requirements established by rule to ensure that the applicant has had the proper training, experience, and qualifications to practice as a professional land surveyor.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.112. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For

## § 47-2853.113. Interns.

The Board of Professional Engineering may also provide, by regulation, for the registration or licensure of an applicant as a land surveyor in training who meets such standards as the Board shall establish.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.113. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For

## § 47-2853.114. Certain representations prohibited.

Unless licensed in accordance with this subchapter, no person shall use the words or terms “land surveyor”, or “licensed land surveyor,” or any words for the purpose of implying that the person is authorized to perform the services of a land surveyor in the District.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.114. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For

PART I.

PLUMBERS OR GASFITTERS.

§ 47-2853.121. **Scope of practice for plumbers or gasfitters.**

(a) For the purposes of this part, the term “plumber” means any person who designs, installs, repairs or removes plumbing fixtures intended to receive and discharge water, liquid, or water-carried wastes into the drainage system with which they are connected; or who introduces, maintains or extends a supply of water through a pipe or pipes, or any appurtenance thereof, in any building, lot premises, or establishment; or who connects or repairs any system of drainage whereby foul, waste, or surplus water, sewer gases, vapor or other fluid is discharged or proposed to be discharged through a pipe or pipes from any building, lot, premises or establishment into any public or house sewer, drain, pit, box filter bed or other receptacle or into any natural or artificial water-course flowing through public or private property; or who ventilates any building, sewer or fixture or appurtenance connected therewith; or who excavates any public or private street, highway, road, court, alley or space for the purpose of connecting any building, lot, premises, or establishment with any service pipe, house sewer, public water main, private water main, public sewer, private sewer, subway, conduit, or other underground structure.

(b) For the purposes of this part, the term “gasfitter” means any person who designs, fabricates, installs, tests or operates any nonindustrial type of gas appliance and piping system from the outlet of the meter set assembly, or from the outlet of the service regulator when a meter is not provided, to the inlet connections of appliances, for fuel gases such as natural gas, manufactured gas, undiluted liquefied petroleum gas, liquefied petroleum gas-air mixtures or mixtures of any of these gases; or who introduces, maintains or extends a supply of a gas through a pipe or pipes, or any appurtenance thereof, in any building, lot premises, or establishment; or who ventilates any fixture or appurtenance connected therewith; or who excavates any public or private street, highway, road, court, alley or space for the purpose of connecting any building, lot, premises, or establishment with any service pipe.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.121. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For

§ 47-2853.122. **Eligibility requirements.**

(a) An applicant to be an apprentice plumber shall be registered by the Mayor, without examination, upon providing such information as may be required by the Board of Industrial Trades and payment of appropriate fees. An apprentice plumber shall work only under the direct personal supervision and control of a licensed master plumber/gasfitter or master gasfitter.



(b) An applicant for licensure as a journeyman plumber or journeyman gasfitter shall establish to the satisfaction of the Board of Industrial Trades that the applicant has:

(1) Worked as an apprentice plumber or gasfitter for at least 8,000 hours over at least 4 years;

(2) Graduated from an accredited college or university with a degree in mechanical engineering, and has at least 2 years of practical experience as a plumber or gasfitter as verified by a licensed master plumber or licensed master gasfitter; or

(3) Has comparable experience or a combination of education and experience that the Board deems equivalent to the above; and

(4) Such additional evidence as the Board determines is necessary for the particular specialty license sought by the applicant.

(c) An applicant for licensure as a master plumber/gasfitter or master gasfitter shall establish to the satisfaction of the Board that the applicant has a valid license as a journeyman plumber or gasfitter, or has met the requirements of subsection (b) of this section, and has worked as a journeyman plumber or journeyman gasfitter for at least 4 years.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.122. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-

**Legislative history of Law 12-261.** — For 2801.

## § 47-2853.123. Certain representations prohibited.

Unless licensed in accordance with this subchapter, no person may use the words or terms “plumber,” “licensed plumber,” “journeyman plumber,” “journeyman gasfitter,” “master plumber,” or “master gasfitter,” or any combination of such words to imply that the person is authorized to perform the services of plumber or gasfitter in the District.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.123. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-

**Legislative history of Law 12-261.** — For 2801.

## PART J.

### PROFESSIONAL ENGINEERS.

## § 47-2853.131. Scope of practice for engineers.

For the purposes of this part, the term “practice of engineering” means the application of special knowledge of the mathematical, physical and engineering sciences and the methods of engineering analysis and design in the performance of services and creative work including consultation, investigation, expert technical testimony, evaluation, planning, design and design

coordination of engineering works and systems, planning the use of land and water, performing engineering surveys and studies, and the review of construction for the purpose of monitoring compliance with drawings and specifications, in connection with any utilities, structures, buildings, machines, equipment, processes, work systems, projects, and industrial or consumer products, or equipment of a control systems, communications, mechanical, electrical, hydraulic, pneumatic, or thermal nature, that may involve safeguarding life, health, or property, and including such other professional services as may be necessary to the planning, progress, and completion of any engineering services.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.131. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.  
**Legislative history of Law 12-261.** — For

### § 47-2853.132. Eligibility requirements.

(a) An applicant for licensure as a professional engineer shall establish to the satisfaction of the Board of Professional Engineers that the applicant:

- (1) Is of good character and reputation;
- (2) Is a graduate of an accredited college or university with a degree in engineering based on a four year curriculum in engineering that is acceptable to the Board;
- (3) Has passed an examination on the principles and practice of engineering prescribed by rule or has passed any other examination issued by a national certifying organization or state that is acceptable to the Board; and
- (4) Meets any other requirements established by rule to ensure that the applicant has had the proper training, experience, and qualifications to practice as a professional engineer.

(b) The Board of Professional Engineering may also provide, by regulation, for the registration or licensure of an applicant as an engineer-in-training who meets such standards as the Board shall establish.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.132. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.  
**Legislative history of Law 12-261.** — For

### § 47-2853.133. Certain representations prohibited.

Unless licensed to practice engineering under this subchapter, no person shall engage directly or indirectly in the practice of engineering in the District or use the title “engineer”, “registered engineer”, “engineering design”, “professional engineer” or display or use any words or letters, figures, titles, signs, cards, advertisement or any other symbols or devices indicating or tending to indicate that the person is an engineer or is practicing engineering.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)



**Prior Codifications.** — 1981 Ed., § 47-2853.133. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-

**Legislative history of Law 12-261.** — For 2801.

## PART K.

### PROPERTY MANAGERS.

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#### § 47-2853.141. Scope of practice for property managers.

For the purposes of this part, the term “property manager” means an agent for the owner of real estate in all matters pertaining to property management as defined in this subchapter, which are under his or her direction, and who is paid a commission, fee, or other valuable consideration for his or her services. A property manager may employ resident managers. The property manager shall be held accountable for the day-to-day job-related activities of the property manager’s employees. The property manager shall not perform any activities that relate to listing for sale, offering for sale, buying or offering to buy, negotiating the purchase, sale, or exchange of real estate, or negotiating a loan on real estate for a fee, commission, or other valuable consideration.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.141. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-

**Legislative history of Law 12-261.** — For 2801.

#### § 47-2853.142. Eligibility requirements.

(a) An applicant for licensure as a property manager shall establish to the satisfaction of the Board of Real Estate that the applicant:

- (1) Is able to read, write, and understand the English language;
- (2) Has passed an examination or examinations given by or under the direction of the Board, or any other examination acceptable to the Board;
- (3) Is a high school graduate or the holder of a high school equivalency certificate;
- (4) Has not had an application for a property manager’s license denied, for reasons other than failure to pass the required examination or examinations, in the District or elsewhere within one year prior to the date on which the application is filed;
- (5) Has not had a property manager’s license suspended in the District or elsewhere which suspension is still in effect on the date on which the application is filed; and
- (6) Has not had a property manager’s license revoked in the District or elsewhere within 3 years prior to the date on which his or her application is filed.

(b) Persons licensed as real estate brokers in the District are deemed to have satisfied the educational and examination requirements for licensure as property managers, but shall be required to satisfy all other requirements as set forth in this subchapter.

**§ 47-2853.143** TAXATION, LICENSING, PERMITS, ETC.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.142. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For 2801.

**§ 47-2853.143. Certain representations prohibited.**

Unless licensed under this subchapter, no person shall use the term or words “property manager” to imply that he or she is licensed as a property manager in the District.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.143. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For 2801.

PART L.

REAL ESTATE APPRAISERS.

**§ 47-2853.151. Scope of practice for real estate appraisers.**

For the purposes of this part, the term “real estate appraiser” means any person who renders or offers to render professional services to persons, groups, or organizations in the act or process of estimating the value of real property and real estate.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; June 16, 2006, D.C. Law 16-130, § 2(i), 53 DCR 4718.)

**Prior Codifications.** — 1981 Ed., § 47-2853.151.

**Effect of amendments.** — D.C. Law 16-130 substituted “value of real property and real estate” for “value of real estate”.

**Temporary Amendment of Section.** — Section 2(j) of D.C. Law 16-101 substituted “real property and real estate” for “real estate”.

Section 4(b) of D.C. Law 16-101 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(j) of Non-Health Related Occupations and Professions Licensure Emergency Act of 2006 (D.C. Act 16-255, January 26, 2006, 53 DCR 763).

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 16-130.** — For Law 16-130, see notes following § 47-2853.06.

**§ 47-2853.152. Eligibility requirements.**

(a) The Board shall establish, by rule, the education, experience, and examination requirements that individuals must meet or exceed to obtain licensure, certification, or registration as an appraiser trainee, a licensed residential real property appraiser, a certified residential real property appraiser, or a certified general real property appraiser.

(b) The licensure requirements established by the Board shall meet or exceed any applicable federal requirements that are necessary for the federal



financial institution's regulatory agencies to recognize and accept licenses for licensed residential real estate appraisers, certified residential real estate appraisers, and certified general real estate appraisers licensed by the Board. If the federal requirements change and the rules of the Board do not satisfy the minimum federal standards, the federal standards established by the Appraisal Qualifications Board and the Appraisal Standards Board of the Appraisal Foundation when reviewing an application for licensure, certification, or registration shall apply until the Board's rules satisfy minimum federal standards.

(c) The Board shall establish, by rule, the requirements that individuals licensed in jurisdictions other than the District of Columbia as a certified residential real property appraiser or a certified general real property appraiser must satisfy to obtain a temporary license from the Board. The Board's requirements shall comply with applicable federal law, but the Mayor may require the applicant to pay a license fee to the Department and may place restrictions on the temporary license.

(d) The Board shall establish rules governing the supervision of appraiser trainees, the definition and enforcement of standards of professional appraiser practice, and the disposition of complaints from any person or from any federal agency or instrumentality regarding improper appraiser conduct.

(e) The Board shall establish, by rule, continuing education requirements necessary for renewal or reinstatement of any license, certification, or registration that meet or exceed the continuing education requirements established under the authority of federal law.

(f) The Board may establish, by rule, practice requirements or standards. The Board may enforce requirements or standards established under federal law.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; June 16, 2006, D.C. Law 16-130, § 2(j), 53 DCR 4718; Mar. 25, 2009, D.C. Law 17-353, §§ 118, 180, 56 DCR 1117.)

**Prior Codifications.** — 1981 Ed., § 47-2853.152.

**Effect of amendments.** — D.C. Law 16-130 rewrote the section.

D.C. Law 17-353, in subsec. (b), substituted "registration shall apply until the Board's rules" for "registration until the Board rules".

**Temporary Amendment of Section.** — Section 2(k) of D.C. Law 16-101 amended this section to read as follows:

"§ 47-2853.152. Eligibility requirements.

"(a) The Board shall establish by regulation the education, experience, and examination requirements that individuals must meet or exceed as conditions for obtaining licensure, certification, or registration as an appraiser trainee, a licensed residential real property appraiser, a certified residential real property appraiser, or a certified general real property appraiser.

"(b) The licensure requirements established

by the Board shall comply with this part and shall meet or exceed any applicable federal requirements that are necessary in order that the federal financial institution's regulatory agencies recognize and accept licenses for licensed residential real estate appraisers, certified residential real estate appraisers, and certified general real estate appraisers issued by the Board. If the federal requirements change and the Board's regulations do not meet the minimum federal standards, the Board may substitute the federal standards established by the Appraisal Qualifications Board and the Appraisal Standards Board of the Appraisal Foundation when reviewing an application for licensure, certification, or registration until the Board is able to amend its regulations.

"(c) The Board shall establish by regulation the requirements that individuals licensed in jurisdictions other than the District of Columbia as a certified residential real property ap-

praiser or a certified general real property appraiser must satisfy prior to obtaining a temporary license from the Board. The Board's requirements shall comply with applicable federal law, but the Mayor may require the applicant to pay a license fee to the Department and may place restrictions on the validity of the temporary license.

"(d) The Board shall establish by regulation provisions for the supervision of appraiser trainees, provisions for defining and enforcing the standards of professional appraiser practice, and provisions for the disposition of complaints from any person or from any federal agency or instrumentality regarding improper appraiser conduct.

"(e) The Board shall establish continuing education requirements necessary for renewal or reinstatement of any license, certification, or registration that meet or exceed the continuing education requirements established under the authority of federal law.

"(f) By regulation, the Board may establish and enforce practice requirements or standards pursuant to District law and may enforce practice requirements or standards established under the authority of federal law."

Section 4(b) of D.C. Law 16-101 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(k) of Non-Health Related Occupations and Professions Licensure Emergency Act of 2006 (D.C. Act 16-255, January 26, 2006, 53 DCR 763).

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 16-130.** — For Law 16-130, see notes following § 47-2853.06.

**Legislative history of Law 17-353.** — For Law 17-353, see notes following § 47-308.

## § 47-2853.153. Certain representations prohibited.

(a) It shall be unlawful for any person in the District to directly or indirectly engage in, advertise, conduct the business of, or act in any capacity as a licensed or certified real estate appraiser or use any title, designation, or abbreviation likely to create the impression of licensure by the District as a real property appraiser for compensation within the District without first obtaining a license as provided in this subchapter.

(b) Any person certified as a real property or real estate appraiser by an appraisal trade organization shall retain the right to use the term "certified" or any similar term in identifying himself or herself to the public, provided that in each instance that the term is used, the name of the certifying organization or body is prominently and conspicuously displayed immediately adjacent to the term and that the use of the term "certified" does not create the impression of licensure by the District.

(c) Nothing in this subchapter shall abridge, infringe upon, or otherwise restrict the right to use the term "certified assessor" or any similar term by any person certified by the Office of Tax and Revenue to perform ad valorem tax appraisal, provided that the term is not used in a manner that creates the impression of licensure or certification by the District to perform real estate or real property appraisals other than for ad valorem tax purposes.

(d) No license shall be issued under the provisions of this subchapter to a partnership, association, corporation, firm, or group, nor shall the term "certified real estate appraiser" or any similar term be used following or immediately in connection with the name of a partnership, association, corporation, or other firm or group or in a manner that might create the impression of licensure or certification by the District as a real estate appraiser. Nothing in this subsection shall be construed to preclude a licensed real estate appraiser from rendering an appraisal for or on behalf of a partnership, association, corporation, firm, or group, provided that the ap-



praisal report is prepared by, or under the immediate personal direction of the licensed real estate appraiser.

(e) Any person who is not licensed or certified under this part may assist a licensed or certified real estate appraiser in the performance of an appraisal if he or she registers with the Board as an appraiser trainee, complies with the registration and practice requirements established by the Board, by rule, and is actively and personally supervised by the licensed or certified real estate appraiser. An appraisal report rendered in connection with the appraisal and drafted by the appraisal trainee shall be reviewed and signed by the licensed or certified real estate appraiser.

(f) It shall be unlawful for any person who performs an appraisal of real estate located in the District to describe or refer to the appraisal by the term “certified” or any similar term unless the person has first been licensed by the Board under the provisions of this subchapter. Nothing in this subchapter shall require a licensed real estate appraiser to render a “certified” real estate appraisal when performing an appraisal assignment. If a licensee or appraiser trainee performs a real estate appraisal that is not represented as being “certified”, the appraiser shall clearly inform the person to whom the appraisal report is given and prominently disclose on the appraisal report that the appraisal is not a “certified” real estate appraisal.

(g) Nothing herein shall be construed to prohibit a real estate broker or salesperson, in the ordinary course of business, from giving an opinion of the price of real estate for the purpose of a prospective listing or sale, if the opinion of the price does not refer to or cannot be construed as an appraisal.

(h) Nothing herein shall be construed to prohibit persons who determine the value of items other than real estate from using the term “appraiser” if they do not hold themselves out or imply that they are authorized to appraise real estate or real property.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; June 16, 2006, D.C. Law 16-130, § 2(k), 53 DCR 4718.)

**Prior Codifications.** — 1981 Ed., § 47-2853.153.

**Effect of amendments.** — D.C. Law 16-130, in subsec. (a), deleted “or certification” following “licensure” and deleted “or certificate” following “license”; in subsec. (b), deleted “or certification” following “licensure” and substituted “real property or real estate” for “real estate” and “and that the use of the term ‘certified’ does” for “and that the use of the term does”; in subsec. (c), substituted “perform real estate or real property” for “perform real estate”; in subsec. (d), deleted “or certified” following “licensed” and “or certificate” following “license”; rewrote subsec. (e); in subsec. (f), deleted “or certified” following “licensed” and substituted “If a licensee or appraiser trainee” for “If a licensed or certified real estate appraiser”; and, in subsec. (h), substituted “appraise real estate or real property” for “appraise real estate”. Prior to amendment, subsec. (e)

read as follows: “(e) Any person who is not licensed or certified under this subchapter may assist a licensed or certified real estate appraiser in the performance of an appraisal, if he or she is actively and personally supervised by the licensed or certified real estate appraiser and that any appraisal report rendered in connection with the appraisal is reviewed and signed by the licensed or certified real estate appraiser.”

**Temporary Amendment of Section.** — Section 2(l) of D.C. Law 16-101, in subsec. (a), deleted “or certification” and “or certificate”; in subsec. (b), substituted “real property or real estate” for “real estate”, substituted “use of the term ‘certified’” for “use of the term”, and deleted “or certification”; in subsec. (c), substituted “real estate or real property” for “real estate”; in subsec. (d), deleted “or certificate” and “or certified”; in subsec. (f), deleted “or certified”, and substituted “If a licensee or ap-

praiser trainee" for "If a licensed or certified real estate appraiser"; in subsec. (h), substituted "real estate or real property" for "real estate"; and amended subsec. (e) to read as follows:

"(e) Any person who is not licensed or certified under this subchapter may assist a licensed or certified real estate appraiser in the performance of an appraisal, if he or she registers with the Board as a Appraiser Trainee, complies with the registration and practice requirements established by the Board by regulation, and is actively and personally supervised by the licensed or certified real estate appraiser. Any appraisal report rendered in connection with the appraisal and drafted by the appraisal trainee shall be reviewed and signed by the licensed or certified real estate appraiser."

Section 4(b) of D.C. Law 16-101 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(l) of Non-Health Related Occupations and Professions Licensure Emergency Act of 2006 (D.C. Act 16-255, January 26, 2006, 53 DCR 763).

For temporary (90 day) addition of section, see § 2(m) of Non-Health Related Occupations and Professions Licensure Emergency Act of 2006 (D.C. Act 16-255, January 26, 2006, 53 DCR 763).

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 16-130.** — For Law 16-130, see notes following § 47-2853.06.

## § 47-2853.154. Appraisal Education Fund.

(a) There is established a fund designated as the Appraisal Education Fund ("Fund"), which shall be separate from the General Fund of the District of Columbia. All funds obtained from an appraisal education fund fee to be established by the Mayor (which shall be in addition to licensing and renewal fees established by the Mayor) and civil penalties imposed by the Board or the Office of Administrative Hearings pursuant to this part, and all interest earned on those funds, shall be deposited into the Fund without regard to fiscal year limitation pursuant to an act of Congress and used solely to pay the costs of operating and maintaining the Fund. All funds, interest, and other amounts deposited into the Fund shall not be transferred or revert to the General Fund of the District of Columbia at the end of any fiscal year or at any other time, but shall continually be available for the uses and purposes set forth in this section, subject to authorization by Congress in an appropriations act.

(b)(1) The funds deposited in the Fund shall be used by the Board for the purpose of raising the standards of practice and the competency of licensees by:

(A) Promoting the advancement of education and research for the benefit of any licensee under this part;

(B) Underwriting educational seminars, workshops, and any other similar form of educational project for the benefit of any licensee under this part; and

(C) Contracting for particular education or other projects intended to further the purposes of this part.

(2) The funds deposited in the Fund shall also be used by the Board to defray the expenses to discharge the administrative and regulatory duties as prescribed by this part.

(c) The Board may establish minimum and maximum balances for the Fund, procedures for continuing and discontinuing assessing licensees, and rules for the implementation and operation of the Fund.

(d) If a licensee fails to pay the appraisal education fee within the time prescribed by rule, his or her license shall be automatically suspended. The



Board shall send a notice of the suspension, by certified mail, to the address of record within 5 days after the suspension. The license shall be restored only upon the actual receipt by the Mayor of the delinquent fee.

(June 16, 2006, D.C. Law 16-130, § 2(l), 53 DCR 4718.)

**Temporary Addition of Section.** — Section 2(m) of D.C. Law 16-101 added provisions to read as follows:

“§ 47-2853.154. Appraisal Education Fund.

“(a) There is established a fund designated as the Appraisal Education Fund (“Fund”), which shall be separate from the General Fund of the District of Columbia and shall be used by the Board for the purpose of raising the standards of practice and the competency of licensees and certificate holders by:

“(1) Promoting the advancement of education and research for the benefit of any person issued a license or certificate under this chapter;

“(2) Underwriting educational seminars, workshops, and any other similar form of educational project for the benefit of any person issued a license or certificate under this chapter;

“(3) Contracting for particular education or other projects intended to further the purposes of this chapter; and

“(4) Defraying the expenses to discharge the administrative and regulatory duties as prescribed by this part; provided, that the Fund shall not be used to discharge the administrative and regulatory duties of any other District government agency, board, or commission, and shall be used solely to carry out the functions of this part.

“(b) No revenues deposited into this continuing, nonlapsing fund may be obligated or spent in any year without a Congressional appropriation. Revenues in this continuing, nonlapsing special account that are carried over into a succeeding fiscal year may not be obligated or spent in the succeeding year without a new

Congressional appropriation that permits such obligation or expenditure.

“(c) Any person issued or renewing a license under this chapter shall pay, in addition to licensing and renewal fees established by the Mayor, a sum to be established by the Mayor for deposit into the Fund.

“(d) Any civil penalties imposed by the Board or the Office of Administrative Hearings pursuant to this chapter shall be deposited in the Fund.

“(e) The Board may, by regulation, establish minimum and maximum balances for the Fund, procedures for continuing and discontinuing assessing licensees, and other provisions relevant to the operation of the Fund.

“(f) If a licensee fails to pay the amount assessed by the Mayor within the time prescribed by rule, his or her license shall be automatically suspended. The Board shall send a notice of the suspension, by certified mail, to the address of record within 5 days after the suspension. The license shall be restored only upon the actual receipt by the Mayor of the delinquent assessment.

“(g) The Fund shall be continuing. Revenues deposited into the Fund shall not revert to the General Fund of the District of Columbia at the end of any fiscal year or at any other time, but shall be continually available for the uses and purposes set forth in this subchapter, subject to authorization by Congress in an appropriations act.”

Section 4(b) of D.C. Law 16-101 provided that the act shall expire after 225 days of its having taken effect.

**Legislative history of Law 16-130.** — For Law 16-130, see notes following § 47-2853.06.

## PART M.

### REAL ESTATE BROKERS.

#### § 47-2853.161. Scope of practice for real estate brokers.

For the purposes of this part, the term “real estate broker” means any person, firm, association, partnership, or corporation (domestic or foreign) which:

(1) For a fee, commission, or other valuable consideration, lists for sale, or sells, exchanges, purchases, rents, or leases real property. A real estate broker may collect or offer to collect rent or income for the use of real estate, or

negotiate a loan secured by a mortgage, deed of trust, or other encumbrance upon the transfer of real estate. A real estate broker may also engage in the business of erecting housing for sale and may sell or offer to sell that housing, or who as owner may sell or, through solicitation or advertising, offer to sell or negotiate the sale of any lot in any subdivision of land comprising 5 lots or more. This definition shall not apply to the sale of space for the advertising of real estate in any newspaper, magazine, or other publication; and

(2) May employ real estate brokers, associate real estate brokers, real estate salespersons, property managers and resident managers. The real estate broker shall be held accountable for the day-to-day job-related activities of his or her employees. These activities include, but are not limited to, property management, leasing or renting of property, listing for sale, buying or negotiating the purchase or sale, or exchanging real estate or negotiating a loan on real property.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.161. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For

## § 47-2853.162. Eligibility requirements.

An applicant for licensure as a real estate broker shall establish to the satisfaction of the Board of Real Estate that the applicant:

(1) Meets all of the requirements for real estate salesperson under part N of this subchapter; and

(2) Has been licensed and actively engaged in business as a real estate broker or salesperson in the District or elsewhere the 2 years immediately preceding the date on which the application for a real estate broker license is filed, or equivalent experience acceptable to the Board.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.162. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For

## § 47-2853.163. Certain representations prohibited.

Unless licensed under this subchapter, no person shall assume or use the title or designation “real estate broker”, the abbreviation “R.E.B.”, or any other title designation, words, letters, abbreviations, sign, card, or device tending to indicate that the person is licensed as a real estate broker in the District.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.163. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For



## PART N.

REAL ESTATE SALESPERSONS.

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**§ 47-2853.171. Scope of practice for real estate salespersons.**

For the purposes of this part, the term “real estate salesperson” means any person employed by a licensed real estate broker to manage or lease; rent or offer to lease or rent; list for sale, sell, or offer for sale; buy or offer to buy; negotiate the purchase or sale, or exchange of real estate; or to negotiate a loan on real estate.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.171. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-

**Legislative history of Law 12-261.** — For 2801.

**§ 47-2853.172. Eligibility requirements.**

An applicant for licensure as a real estate broker shall establish to the satisfaction of the Board of Real Estate that the applicant:

- (1) Is able to read, write, and understand the English language;
- (2) Is a high school graduate or the holder of a high school equivalency certificate;
- (3) Has successfully completed a course of study prescribed by the Board at a school approved by the Board;
- (4) Has passed an examination or examinations given by or under direction of the Board or has passed any other examination acceptable to the Board;
- (5) Has not had an application for a real estate license denied, for reasons other than failure to pass the required examination or examinations, in the District or elsewhere within one year prior to the date on which the application is filed;
- (6) Has not had a real estate license suspended in the District or elsewhere, which suspension is still in effect on the date on which the application is filed; and
- (7) Has not had a real estate license revoked in the District or elsewhere within 3 years prior to the date on which his or her application is filed.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.172. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-

**Legislative history of Law 12-261.** — For 2801.

**§ 47-2853.173. Certain representations prohibited.**

Unless licensed under this subchapter, no person shall assume or use the

title or designation “real estate salesperson”, the abbreviation “R.E.S.”, or any other title designation, words, letters, abbreviations, sign, card, or device tending to indicate that the person is licensed as a real estate salesperson unless the person is licensed as a real estate salesperson in the District.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.173. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-

**Legislative history of Law 12-261.** — For 2801.

## PART O.

### SPECIAL RULES FOR REAL ESTATE BROKERS, REAL ESTATE SALESPERSONS, AND PROPERTY MANAGERS.

#### § 47-2853.181. Exemptions from licensure requirement.

Except as otherwise provided in this subchapter, nothing contained in this part shall be construed to apply to:

(1) Receivers, referees, administrators, executors, guardians, conservators, trustees, or other persons appointed or acting under the judgment or order of any court while acting in that capacity, or attorneys-at-law in the ordinary practice of their profession, but these persons shall not be regularly engaged in the real estate business and shall not hold themselves out as real estate brokers, salespersons or property managers;

(2) Any individual who, as an owner or lessor of real estate, shall perform any of the acts specified in this subsection, where the acts are performed in the regular course of, or incident to, the management of real estate, business and the investments therein owned by that individual;

(3) Any trustee or auctioneer acting under authority of a power of sale in a mortgage, deed of trust, or similar instrument securing the payment of a bona fide debt;

(4) Except for title companies, any bank, trust company, building and loan or savings and loan association, or insurance company, having a fiduciary interest such as a receiver, referee, administrator, executor, guardian, conservator or trustee, when the bank, trust company, building and loan or savings and loan association, or insurance company is so engaged;

(5) Any person who is employed by a licensed real estate broker or property manager in a solely stenographic or clerical capacity and who does not perform, offer, agree, or attempt to perform, any of the activities specified in this subsection;

(6) Any officer or employee of the United States or District government while performing his or her official duties, or any person, or employee thereof, who is employed on a contractual or other basis, by the United States or District government to make appraisals of real estate for real property tax or other government purposes;

(7) Any person who, for a fee, commission, or other valuable consider-



ation, identifies for another person, or provides any other information about, any rental unit available for rent; or

(8) Any qualifying nonprofit housing organization as defined by § 47-3505(a).

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142; June 16, 2006, D.C. Law 16-130, § 2(m), 53 DCR 4718.)

**Prior Codifications.** — 1981 Ed., § 47-2853.181.

**Effect of amendments.** — D.C. Law 16-130, in par. (2), substituted “individual” for “person”.

**Temporary Amendment of Section.** — Section 2(n) of D.C. Law 16-101, in par. (2), substituted “natural person” for “person”.

Section 4(b) of D.C. Law 16-101 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(n) of Non-Health Related Occupations and Professions Licensure Emergency Act of 2006 (D.C. Act 16-255, January 26, 2006, 53 DCR 763).

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 16-130.** — For Law 16-130, see notes following § 47-2853.06.

## § 47-2853.182. Transfer of license; change of status.

(a) A license issued to a real estate broker, real estate broker or property manager shall not be transferred to another person.

(b) A person licensed as a real estate broker may, upon written request to the Mayor, change his or her status from that of a real estate broker to that of a member, partner, trustee, or officer of a firm, franchise, partnership, association, or corporation, or to that of an associate real estate broker with a corporation, for any unexpired portion of his or her licensure term, upon the payment of the requisite fees required pursuant to this subchapter.

(c) Any broker who wishes to change his or her status to that of an associate real estate broker shall notify the Board of Real Estate by certified mail.

(d) For the purposes of this part, the term “associate real estate broker” means any person licensed under this subchapter as a broker who is employed by a real estate broker, franchise firm, association, business, or corporation, but who is not a partner, an officer or a principal broker within a licensed legal entity.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.182.

**Legislative history of Law 12-261.** — For

legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

## § 47-2853.183. Licensure of real estate organizations.

No real estate broker’s license shall be issued to any firm, franchise, partnership, association, or corporation unless the Mayor finds that:

(1) The applicant is organized and exists pursuant to applicable District and federal laws;

(2) Every person member, partner, trustee, or officer who is engaged in activities defined in this subsection is licensed under this subchapter;

## § 47-2853.184

TAXATION, LICENSING, PERMITS, ETC.

(3) Every employee who will render professional services holds a valid license or certificate issued by the Board; and

(4) Every branch office is managed by a licensed real estate broker.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.183. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For

## § 47-2853.184. Place of business.

(a) If a real estate broker maintains more than one place of business within the District, a duplicate license shall be issued to the broker for each office upon payment of the required fee. A copy of the license must be posted within each office.

(b) Whenever a real estate broker changes the location of his or her principal place of business, or discontinues his or her business, he or she shall notify the Mayor within 15 days of the event, in writing, and return to the Mayor his or her license together with the licenses of all real estate salespersons employed by him or her. The Mayor shall issue a new license to the broker upon payment of the required fee. A salesperson shall be issued a new license upon reemployment and payment of the required fees.

(c) Failure to notify the Mayor or to return the license as required by this section will result in immediate suspension of the license until the real estate broker has complied with the provisions of this section.

(d) New licenses for the unexpired term may be issued by the Mayor upon written request by the applicant and the payment of the fees required pursuant to this subchapter.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.184. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For

## § 47-2853.185. Prohibited names.

The Mayor may refuse to issue, renew, or transfer a license in a name that:

(1) Is misleading or would constitute false advertising;

(2) Implies a partnership, association, or corporation when a partnership, association, or corporation does not exist;

(3) Includes the name of a salesperson;

(4) Is in violation of law;

(5) Is a name which has been used by any person whose license has been suspended;

(6) Includes the name of a person not otherwise licensed; or

(7) Is a name which is deceptively similar to a name used by any other licensee.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)



**Prior Codifications.** — 1981 Ed., § 47-2853.185. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-

**Legislative history of Law 12-261.** — For 2801.

### **§ 47-2853.186. Automatic suspension of license through affiliation.**

(a) Whenever a real estate broker's license has been suspended or revoked pursuant to this subchapter, all real estate salespersons employed by that real estate broker must mail their licenses to the Mayor within 15 days of the revocation or suspension. It shall be unlawful for the real estate salesperson to perform any of the acts specified in this subchapter from the date of revocation or suspension until he or she has been reemployed and a license has been reissued to him or her by the Mayor.

(b) When a real estate salesperson is discharged or terminates his or her employment with a licensee, the licensee, within 15 calendar days, shall mail notification to the former employee that his or her license has been mailed to the Mayor. A copy of the notice to the real estate salesperson shall accompany the license when it is mailed to the Mayor. It shall be unlawful for any real estate salesperson to perform any of the acts specified in this subchapter, under authority of the license issued pursuant to this subchapter, from the date of discharge or termination until the time he or she is employed by another licensee and a license is reissued to him or her by the Mayor.

(c) When a real estate salesperson is discharged by or terminates his employment with a licensee it shall be the duty of the real estate salesperson to notify the Mayor in writing within 15 days. It shall be unlawful for the real estate salesperson to perform any of the acts specified in this statute from the date of discharge or termination until he or she has been employed by another licensee and a license is reissued to him or her by the Mayor.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.186. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-

**Legislative history of Law 12-261.** — For 2801.

### **§ 47-2853.187. Effect of corporate, partnership, or association license revocation or suspension.**

In the event of the revocation or suspension of a license issued to a real estate firm, franchise, partnership, association, or corporation, the license issued to the principal real estate broker, or any member of a partnership or director or officer of an association or corporation, shall be summarily revoked or suspended by the Mayor, unless:

(1) In a partnership, the connection with the member whose license has been revoked or suspended is severed within the time prescribed by the Mayor, and his or her participation in the partnership's activities is terminated; or

(2) In an association or corporation, the director or officer whose license has been revoked or suspended is discharged and he or she has no further participation in the association's or corporation's activities.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.187. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-

**Legislative history of Law 12-261.** — For 2801.

PART P.

DUTIES OF REAL ESTATE BROKERS, SALESPERSONS, AND  
PROPERTY MANAGERS.

§ 47-2853.191. **Fiduciary duties when representing a seller.**

(a) A licensee engaged by a seller shall:

- (1) Perform in accordance with the terms of the brokerage relationship;
- (2) Promote the interests of the seller by:

(A) Seeking a sale at the price and terms agreed upon in the brokerage relationship or at a price and terms acceptable to the seller; however, the licensee shall not be obligated to seek additional offers to purchase the property while the property is subject to a contract of sale, unless agreed to as part of the brokerage relationship or as the contract of sale so provides;

(B) Presenting in a timely manner all written offers or counter-offers to and from the seller, even when the property is already subject to a contract of sale;

(C) Disclosing to the seller material facts related to the property or concerning the transaction of which the licensee has actual knowledge; and

(D) Accounting for in a timely manner all money and property received in which the seller has or may have an interest;

(3) Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential, unless otherwise provided by law or the seller consents in writing to the release of such information;

(4) Exercise ordinary care; and

(5) Comply with all requirements of this section, all applicable fair housing statutes and regulations, and all other applicable statutes and regulations which are not in conflict with this section.

(b) A licensee engaged by a seller shall treat all prospective buyers honestly and shall not knowingly give them false information. A licensee engaged by a seller shall disclose to prospective buyers all material adverse facts pertaining to the physical condition of the property which are actually known by the licensee. A licensee shall not be liable to a buyer for providing false information to the buyer if the false information was provided to the licensee by the seller and the licensee did not have actual knowledge that the information was false or act in reckless disregard of the truth. No cause of action shall arise against any licensee for revealing information as required by this section or applicable law.



(c) A licensee engaged by a seller in a real estate transaction may, unless prohibited by law or the brokerage relationship, provide assistance to a buyer or potential buyer by performing ministerial acts. Performing such ministerial acts that are not inconsistent with part O and § 47-2853.197 shall not be construed to violate the licensee's brokerage relationship with the seller unless expressly prohibited by the terms of the brokerage relationship, nor shall performing such ministerial acts be construed to form a brokerage relationship with such buyer or potential buyer.

(d) A licensee engaged by a seller does not breach any duty or obligation owed to the seller by showing alternative properties to prospective buyers, whether as clients or customers, or by representing other sellers who have other properties for sale.

(e) Licensees shall disclose brokerage relationships pursuant to the provisions of this section.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3412.)

**Prior Codifications.** — 1981 Ed., § 47-2853.191. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For

## § 47-2853.192. Fiduciary duties when representing a buyer.

(a) A licensee engaged by a buyer shall:

- (1) Perform in accordance with the terms of the brokerage relationship;
- (2) Promote the interests of the buyer by:

(A) Seeking a property at a price and terms acceptable to the buyer, but, the licensee shall not be obligated to seek other properties for the buyer while the buyer is a party to a contract to purchase property unless agreed to as part of the brokerage relationship;

(B) Presenting in a timely manner all written offers or counteroffers to and from the buyer, even when the buyer is already a party to a contract to purchase property;

(C) Disclosing to the buyer material facts related to the property or concerning the transaction of which the licensee has actual knowledge, provided that nothing in this section shall modify or limit in any way the provisions of § 42-1755(f); and

(D) Accounting for in a timely manner all money and property received in which the buyer has or may have an interest;

(3) Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential unless otherwise provided by law or the buyer consents in writing to the release of such information;

- (4) Exercise ordinary care; and

(5) Comply with all requirements of this section, all applicable fair housing statutes and regulations, and all other applicable statutes and regulations which are not in conflict with this section.

(b) A licensee engaged by a buyer shall treat all prospective sellers honestly and shall not knowingly give them false information. No cause of action shall arise against any licensee for revealing information as required by this section or applicable law. In the case of a residential transaction, a licensee engaged by a buyer shall disclose to a seller the buyer's intent to occupy the property as a principal residence.

(c) A licensee engaged by a buyer in a real estate transaction may, unless prohibited by law or the brokerage relationship, provide assistance to the seller, or prospective seller, by performing ministerial acts. Performing such ministerial acts that are not inconsistent with part O, § 47-2853.197, and this section shall not be construed to violate the licensee's brokerage relationship with the buyer unless expressly prohibited by the terms of the brokerage relationship, nor shall performing such ministerial acts be construed to form a brokerage relationship with the seller.

(d) A licensee engaged by a buyer does not breach any duty or obligation to the buyer by showing properties in which the buyer is interested to other prospective buyers, whether as clients or customers, by representing other buyers looking at the same or other properties, or by representing sellers relative to other properties.

(e) Licensees shall disclose brokerage relationships pursuant to the provisions of § 47-2853.193.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.192.

**Legislative history of Law 12-261.** — For

legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

## CASE NOTES

### In General.

Home purchasers were required to present expert testimony to establish the standard of care owed by real estate agent in the selection of home inspectors for their clients, in order to establish that their real estate agent breached fiduciary duty in recommending home inspector who failed to detect faulty back wall of the

home; lay person did not have common knowledge to determine the appropriate standard of care for a real estate agent under the circumstances, and statute governing fiduciary duties of real estate agents did not present a meaningful standard of care. *Carleton v. Winter*, 901 A.2d 174, 2006 D.C. App. LEXIS 428 (2006).

## § 47-2853.193. Fiduciary duties when representing a landlord of leased property.

(a) A licensee engaged by a landlord to lease property shall:

- (1) Perform in accordance with the terms of the brokerage relationship;
- (2) Promote the interests of the landlord by:

(A) Seeking a tenant at the price and terms agreed in the brokerage relationship or at a price and terms acceptable to the landlord; however, the licensee shall not be obligated to seek additional offers to lease the property while the property is subject to a lease or a letter of intent to lease under which the tenant has not yet taken possession, unless agreed as part of the brokerage relationship, or unless the lease or the letter of intent to lease so provides;



(B) Presenting in a timely manner all written offers or counteroffers to and from the landlord, even when the property is already subject to a lease or a letter of intent to lease;

(C) Disclosing to the landlord material facts related to the property or concerning the transaction of which the licensee has actual knowledge; and

(D) Accounting for in a timely manner all money and property received in which the landlord has or may have an interest;

(3) Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential, unless otherwise provided by law or the landlord consents in writing to the release of such information;

(4) Exercise ordinary care; and

(5) Comply with all requirements of this section, fair housing statutes and regulations, and all other applicable statutes and regulations which are not in conflict with this section.

(b) A licensee engaged by a landlord to lease property shall treat all prospective tenants honestly and shall not knowingly give them false information. A licensee engaged by a landlord shall disclose to prospective tenants all material adverse facts pertaining to the physical condition of the property which are actually known by the licensee. A licensee shall not be liable to a tenant for providing false information to the tenant if the false information was provided to the licensee by the landlord and the licensee did not have actual knowledge that the information was false or act in reckless disregard of the truth. No cause of action shall arise against any licensee for revealing information as required by this section or applicable law. Nothing in this subsection shall limit the right of a prospective tenant to inspect the physical condition of the property. Nothing in this section shall modify or limit in any way the provisions of § 42-1755(f) [repealed].

(c) A licensee engaged by a landlord in a real estate transaction may, unless prohibited by law or the brokerage relationship, provide assistance to a tenant, or potential tenant, by performing ministerial acts. Performing such ministerial acts that are not inconsistent with part O of this subchapter shall not be construed to violate the licensee's brokerage relationship with the landlord unless expressly prohibited by the terms of the brokerage relationship, nor shall performing such ministerial acts be construed to form a brokerage relationship with such tenant or potential tenant.

(d) A licensee engaged by a landlord does not breach any duty or obligation owed to the landlord by showing alternative properties to prospective tenants, whether as clients or customers, or by representing other landlords who have other properties for lease.

(e) Licensees shall disclose brokerage relationships pursuant to the provisions of this section.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.193.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see His-

torical and Statutory Notes following § 47-2801.

**§ 47-2853.194. Fiduciary duties when representing a tenant.**

(a) A licensee engaged by a tenant shall:

- (1) Perform in accordance with the terms of the brokerage relationship;
- (2) Promote the interests of the tenant by:

(A) Seeking a lease at a price and with terms acceptable to the tenant; however, the licensee shall not be obligated to seek other properties for the tenant while the tenant is a party to a lease or a letter of intent to lease exists under which the tenant has not yet taken possession, unless agreed to as part of the brokerage relationship, or unless the lease or the letter of intent to lease so provides;

(B) Presenting in a timely fashion all written offers or counter-offers to and from the tenant, even when the tenant is already a party to a lease or a letter of intent to lease;

(C) Disclosing to the tenant material facts related to the property or concerning the transaction of which the licensee has actual knowledge, provided that nothing in this section shall amend or limit in any way the provisions of § 42-1755(f) [repealed]; and

(D) Accounting for in a timely manner all money and property received in which the tenant has or may have an interest;

(3) Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential unless otherwise provided by law or the tenant consents in writing to the release of such information;

(4) Exercise ordinary care; and

(5) Comply with all requirements of this section, fair housing statutes and regulations, and all other applicable statutes and regulations which are not in conflict with this section.

(b) A licensee engaged by a tenant shall treat all prospective landlords honestly and shall not knowingly give them false information. No cause of action shall arise against any licensee for revealing information as required by this section or applicable law.

(c) A licensee engaged by a tenant in a real estate transaction may provide assistance to the landlord or prospective landlord by performing ministerial acts. Performing such ministerial acts that are not inconsistent with subsection (a) of this section shall not be construed to violate the licensee's brokerage relationship with the tenant unless expressly prohibited by the terms of the brokerage relationship, nor shall performing such ministerial acts be construed to form a brokerage relationship with the landlord or prospective landlord.

(d) A licensee engaged by a tenant does not breach any duty or obligation to the tenant by showing properties in which the tenant is interested to other prospective tenants, whether as clients or customers, by representing other



tenants looking for the same or other properties to lease, or by representing landlords relative to other properties.

(e) Licensees shall disclose brokerage relationships pursuant to the provisions of this section.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.194. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-

**Legislative history of Law 12-261.** — For 2801.

## § 47-2853.195. Fiduciary duties of a property manager.

(a) A licensee engaged to manage real estate shall:

(1) Perform in accordance with the terms of the property management agreement;

(2) Exercise ordinary care;

(3) Disclose in a timely manner to the owner material facts of which the licensee has actual knowledge concerning the property;

(4) Maintain confidentiality of all personal and financial information received from the client during the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential unless otherwise provided by law or the owner consents in writing to the release of such information;

(5) Account for, in a timely manner, all money and property received in which the owner has or may have an interest; and

(6) Comply with all requirements of this section, fair housing statutes and regulations, and all other applicable statutes and regulations which are not in conflict with this section.

(b) Except as provided in the property management agreement, a licensee engaged to manage real estate does not breach any duty or obligation to the owner by representing other owners in the management of other properties.

(c) A licensee engaged to manage real estate may also represent the owner as seller or landlord if he or she enters into a brokerage relationship that so provides; in which case, the licensee shall disclose such brokerage relationships pursuant to the provisions of this section.

(d) Prior to entering into any brokerage relationship provided for in this section, a licensee shall advise the prospective client of the type of brokerage relationship proposed by the broker, and the broker's compensation, and whether the broker will share such salary or compensation with another broker who may have a brokerage relationship with another party to the transaction.

(e) The brokerage relationships set forth in this section shall commence at the time that a client engages a licensee and shall continue until (1) completion of performance in accordance with the brokerage relationship; or (2) the earlier of (A) any date of expiration agreed upon by the parties as part of the brokerage relationship or in any amendments thereto; (B) any mutually agreed upon termination of the relationship; (C) a default by any party under the terms of the brokerage relationship; or (D) a termination as set forth in § 47-2853.197(4).

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.195. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-

**Legislative history of Law 12-261.** — For 2801.

## § 47-2853.196. General provisions governing disclosure of brokerage relationships.

(a) Brokerage relationships shall have a definite termination date; however, if a brokerage relationship does not specify a definite termination date, the brokerage relationship shall terminate 90 days after the date the brokerage relationship was entered into.

(b) Except as otherwise agreed to in writing, a licensee owes no further duties to a client after termination, expiration, or completion of performance of the brokerage relationship, except to account for all moneys and property relating to the brokerage relationship, and keep confidential all personal and financial information received from the client during the course of the brokerage relationship and any other information that the client requests during the brokerage relationship be maintained confidential, unless otherwise provided by law or the client consents in writing to the release of such information.

(c) Upon having a substantive discussion about a specific property or properties with an actual or prospective buyer or seller who is not the client of the licensee, a licensee shall disclose any broker relationship the licensee has with another party to the transaction. The disclosure shall be made in writing at the earliest practical time, but in no event later than the time when specific real estate assistance is first provided, and shall be substantially in the form determined by the Board by regulation.

(d) A licensee shall disclose to an actual or prospective landlord or tenant, who is not the client of the licensee, that the licensee has a brokerage relationship with another party or parties to the transaction. The disclosure shall be in writing and included in all applications for lease or in the lease itself, whichever occurs first. If the terms of the lease do not provide for disclosure, disclosure shall be made in writing no later than the signing of lease. This disclosure requirement shall not apply to lessors or lessees in single or multifamily residential units for lease terms of less than 2 months.

(e) If a licensee's relationship to a client or customer changes, the licensee shall disclose that fact in writing to all clients and customers already involved in the specific contemplated transaction.

(f) Copies of any disclosures relative to fully executed purchase contracts shall be kept by the licensee for a period of 3 years as proof of having made disclosure, whether or not such disclosure is acknowledged in writing by the party to whom the disclosure was shown or given.

(g) A licensee may act as a dual representative only with the written consent of all clients to the transaction. The written consent and disclosure of the brokerage relationship as required by this section shall be presumed to have been given as against any client who signs a disclosure as provided in this section.



(h) The disclosure may be given in combination with other disclosures or provided with other information, but shall be substantially in the form determined by the Board by regulation.

(i) No cause of action shall arise against a dual representative for making disclosures of brokerage relationships as provided by this section. A dual representative does not terminate any brokerage relationship by the making of any such allowed or required disclosures of dual representation.

(j) In any real estate transaction, a licensee may withdraw, without liability, from representing a client who refuses to consent to a disclosed dual representation, thereby terminating the brokerage relationship with such client. Withdrawal shall not prejudice the ability of the licensee to continue to represent the other client in the transaction nor to limit the licensee from representing the client who refused the dual representation in other transactions not involving dual representation.

(k) A principal or supervising broker may assign different licensees affiliated with the broker as designated representatives to represent different clients in the same transaction to the exclusion of all other licensees in the firm. Use of designated representatives shall not constitute dual representation if a designated representative is not representing more than one client in a particular real estate transaction; however, the principal or broker who is supervising the transaction shall be considered a dual representative as provided in this article. Designated representatives may not disclose, except to the affiliated licensee's broker, personal or financial information received from the clients during the brokerage relationship and any other information that the client requests during the brokerage relationship be kept confidential, unless otherwise provided for by law or the client consents in writing to the release of such information.

(l) Use of designated representatives in a real estate transaction shall be disclosed in accordance with the provisions of this section. Disclosure may be given in combination with other disclosures or provided with other information, but shall be substantially in the form determined by the Board by regulation.

(m) The payment or promise of payment or compensation to a real estate broker or property manager does not create a brokerage relationship between any broker, seller, landlord, buyer or tenant.

(n) No licensee representing a buyer or tenant shall be deemed to have a brokerage relationship with a seller, landlord, or other licensee solely by reason of using a common source information company.

(o) A client is not liable for a misrepresentation made by a licensee in connection with a brokerage relationship, unless the client knew or should have known of the misrepresentation and failed to take reasonable steps to correct the misrepresentation in a timely manner, or the negligence, gross negligence, or intentional acts of any property manager, broker, or broker's licensee.

(p) A licensee who has a brokerage relationship with a client and who engages another licensee to assist in providing brokerage services to such client shall not be liable for a misrepresentation made by the other licensee,

unless the licensee knew or should have known of the other licensee's misrepresentation and failed to take reasonable steps to correct the misrepresentation in a timely manner, or the negligence, gross negligence, or intentional acts of the assisting licensee or assisting licensee's licensee.

(q) Clients and licensees shall be deemed to possess actual knowledge and information only. Knowledge or information between or among clients and licensees shall not be imputed.

(r) The common law of agency relative to brokerage relationships in real estate transactions to the extent inconsistent with this section shall be expressly abrogated.

(s) Nothing in this part shall limit the liability between or among clients and licensees in all matters involving unlawful discriminatory housing practices.

(t) Except as expressly set forth in this subchapter, nothing in this part shall affect a person's right to rescind a real estate transaction or limit the liability of a client for the misrepresentation, negligence, gross negligence, or intentional acts of such client in connection with a real estate transaction, or a licensee for the misrepresentation, negligence, gross negligence, or intentional acts of such licensee in connection with a real estate transaction.

(u) The criminal penalties provided in § 42-1763 [repealed] shall not be applicable to violations of this section, which shall be civil and regulatory in nature.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.196. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For

## § 47-2853.197. Prohibited acts.

In addition to those acts prohibited by other sections of this subchapter, a real estate broker, real estate salesperson or property manager may be subject to disciplinary action, and fines not to exceed \$2,500 per violation, if he or she has:

- (1) Made any substantial misrepresentation;
- (2) Made any false promise of a character likely to influence, persuade, or induce;
- (3) Pursued a continued and flagrant course of misrepresentation, or made false promises through agents or salespersons, or advertisement or otherwise;
- (4) Acted, as a broker or salesperson, for more than one party in a transaction without the knowledge of all parties for whom he or she acted;
- (5) As a property manager, disclosed to a third party confidential information which would be injurious concerning the business or personal affairs of a client without prior written consent of the client, except as may be required or compelled by applicable law or rules;
- (6) Accepted a fee, commission, or other valuable consideration as a real estate salesperson for the performance of any of the acts specified in this subchapter from any person, except the broker under whose name he or she is



or was licensed at the time the fee, commission, or other valuable consideration was earned;

(7) As a property manager, failed to maintain accurate accounting records concerning the property managed for the client and failed to keep the records available for inspection by each client;

(8) Represented or attempted to represent any real estate broker, other than the broker under whose name he or she is licensed, as a real estate salesperson without the express knowledge and written consent of the broker under whose name he or she is licensed;

(9) Placed an advertisement in any publication, or used a sign or business card which was misleading or which constituted false advertising;

(10) Failed, within a reasonable time, to account for or to remit any money, valuable document, or other property coming into his or her possession which belongs to others;

(11) Demonstrated unworthiness or incompetency to act as a real estate broker and real estate salesperson so as to endanger the public interest;

(12) While acting or attempting to act as agent or broker, purchased or attempted to purchase any business or real estate for himself or herself, either in his or her own name or by use of a straw party, without disclosing that fact to the party he or she represents;

(13) Been guilty of any other conduct, whether of the same or of a different character from that prescribed in this section, which constituted fraudulent or dishonest dealing;

(14) Used any trade name or insignia of membership in any real estate organization of which the licensee is not a member;

(15) Disregarded or violated any provision of this subchapter, the rules issued pursuant to this subchapter, or the code of ethics adopted pursuant to this subchapter;

(16) Guaranteed, authorized, or permitted any broker or salesperson to guarantee future profits which may result from the resale of real estate or a business or business opportunity, or the goodwill of any existing business;

(17) Offered any property for rent or otherwise without the written consent of the owner or the owner's authorized agent;

(18) Offered any property or business for sale or rent or placed a sign on any real estate offering it for sale or for rent without the written consent of the owner or his or her authorized agent;

(19) Made or accepted a listing contract to sell real estate or a business unless the contract is in writing and provides for a definite termination date which is not subject to prior notice from either party;

(20) Failed to furnish a copy of any listing, sale, lease, or other contract relevant to a real estate or business transaction to all signatories thereof at the time of execution;

(21) Accepted compensation from more than one party to a transaction without the knowledge and consent of all other parties to the transaction;

(22) Failed to keep an escrow or trustee accounting of funds deposited with him or her relating to real estate and business transactions, and to maintain records for a period of 3 years, showing to whom the money belongs,

the date of deposit, the date of withdrawal, to whom paid, and other pertinent information as the Board may require by regulation; the records to be made available to the Board on demand or upon written notice given to the depository;

(23) Commingled escrow or trustee funds held by the licensee with his or her personal funds, other than a nominal amount necessary to keep active the escrow or trustee account;

(24) Induced any party to a written agreement in a real estate or business sales transaction to break the agreement for the purpose of substituting a new agreement where the substitution is motivated by the personal gain of the concerned licensee;

(25) As a property manager, refused or prevented, directly or indirectly, a prospective lessee inspection of residential real estate upon reasonable request and scheduling for inspections, for the purpose of reviewing, examining, or having a third party examine the real estate and the conditions of its fixtures;

(26) Made any oral or written representations, at or prior to conveyance to a prospective lessee or residential real estate that repairs, renovations, improvements, installation, or additions will be made to the property after the conveyance unless all the representations are furnished in writing to the lessee at or prior to the conveyance of the premises;

(27) Failed to advise the Board in writing within 15 days of the entry of any judgment against the licensee in a civil or criminal proceeding by a court of competent jurisdiction;

(28) Failed, as a broker, to return immediately to the Mayor the license of a salesperson employed by the broker, wherein the salesperson has been discharged or has terminated his or her employment or affiliation with the broker;

(29) Failed, as a salesperson, to place in the custody of the employing broker, as soon after receipt as is practicable, all money, valuable documents, or other property entrusted to him or her by any person dealing with him or her as the representative of the broker;

(30) Accepted, offered, agreed, or attempted to accept, employment for a fee, commission, or other valuable consideration for appraising real estate or a business, contingent upon the reporting of a predetermined value;

(31) Issued an appraisal report on real estate or a business in which the licensee has an undisclosed interest;

(32) Violated, as determined by the Mayor or a court of competent jurisdiction, any provision of Chapter 14 of this title or the rules issued pursuant to that chapter;

(33) Violated, as determined by the District of Columbia Commission on Human Rights, as established by Commissioner's Order No. 71-224, effective July 8, 1971, the Mayor, or a court of competent jurisdiction, any provision of Unit A of Chapter 14 of Title 2 or the rules issued pursuant to that chapter, or failed to comply with an order of the District of Columbia Commission on Human Rights, as established by Commissioner's Order No. 71-224, effective July 8, 1971, pursuant to that chapter;

(34) Violated, as determined by the Department of Consumer and Regulatory Affairs, established by the Reorganization Plan No. 1 of 1983, effective



March 31, 1983, the Mayor, or a court of competent jurisdiction, any provision of Chapter 39 of Title 28 of the District of Columbia Official Code, or the rules issued pursuant to that chapter, or failed to comply with an order of the Department of Consumer and Regulatory Affairs or its administrative law judge;

(35) Made any oral or written representations, after or prior to conveyance, to a prospective buyer of a business or residential real estate that repairs, renovations, improvements, installations, or additions will be made to the business or real estate after the conveyance, or continued to act on behalf of a seller who made those representations, unless all the representations are furnished in writing to the buyer at least 5 days prior to the conveyance;

(36) Entered into or became a party to any contract, agreement, or understanding, or in any manner whatsoever considered, combined, conspired, or acted with another or others:

(A) To execute a deed or other instrument conveying real estate or a business of any interest therein situated in the District that is not a bona fide sale or transfer, but which is instead a simulated sale or transfer of the real estate, business, or interest therein executed for the purpose and with the intent of defrauding others or misleading others as to the value of the business, real estate or interest therein, and which does so mislead or defraud others, to their detriment; or

(B) To execute a mortgage, deed of trust, or chattel mortgage upon any real estate, business, or interest therein situated in the District that does not represent security for a bona fide indebtedness, but which is a simulated transaction, executed for the purpose and with the intent of misleading or deceiving others as to the value of a business, real estate, or interest therein and which does mislead, deceive, or defraud others to their detriment;

(37) Offered, gave, awarded, promised, used any method, scheme or plan, offering, giving, awarding or promising, free lots in connection with the sale or the offering for sale, or attempt to sell or negotiate the sale of any real estate, business, or interest therein, wherever situated, for the purpose of attracting, inducing, persuading, or influencing a purchaser or prospective purchaser; or offered, promised, or gave prizes of any name or nature for attendance at or participation in any sale of any real estate, business, or interest therein, by auction or otherwise including an owner of the real estate, business, or interest therein;

(38) Knowingly paid a fee, commission, or compensation to anyone for the performance of any service or act within the District defined in this subchapter as the act of a real estate broker or real estate salesperson to any person who was not duly licensed at the time the service or act was performed. This subsection shall not apply to the payment of a referral fee by a real estate broker licensed under this subchapter to a nonresident cooperating real estate broker who is properly licensed in his or her own jurisdiction; or

(39) Knowingly prepared, distributed, or circulated, or caused the preparation, distribution, or circulation of, any false or misleading advertising in connection with the sale, exchange, purchase, lease, or rental of real estate or business.

**§ 47-2853.198**      TAXATION, LICENSING, PERMITS, ETC.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.197. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-

**Legislative history of Law 12-261.** — For 2801.

**§ 47-2853.198. Acts not required to be disclosed.**

Notwithstanding the possibility that a fact may have a psychological impact on a purchaser, lessee, or sublessee, it shall not be a material fact that must be disclosed in a real estate transaction, nor shall it be the basis for a cause of action against an owner of real property, a real estate broker, a real estate salesperson, a property manager, a lessee, or sublessee, that the following information was not disclosed to the purchaser, lessee, or sublessee:

(1) An occupant of real property, at any time, was infected or was or is suspected to have been infected with a human immune deficiency virus;

(2) An occupant of real property, at any time, has been diagnosed, was infected, or was suspected to have been diagnosed as having acquired immune deficiency syndrome or any other disease that has been determined by medical evidence to be highly unlikely to be transmitted through occupancy of property alone; or

(3) The property, at any time, has been or was suspected to have been the site of a suicide, homicide, or other felony.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.198. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-

**Legislative history of Law 12-261.** — For 2801.

**PART Q.**

**REFRIGERATION AND AIR CONDITIONING MECHANICS.**

**§ 47-2853.201. Scope of practice for refrigeration and air conditioning mechanics.**

For the purposes of this part, the term “refrigeration and air conditioning mechanic” means a person who designs, installs, maintains or alters mechanical systems for refrigeration or air conditioning of any public or private building or vehicle.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.201. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-

**Legislative history of Law 12-261.** — For 2801.

**§ 47-2853.202. Eligibility requirements.**

(a) An applicant to be an apprentice refrigeration and air conditioning



mechanic shall be registered by the Mayor, without examination, upon providing such information as may be required by the Board of Industrial Trades and payment of appropriate fees. An apprentice refrigeration and air conditioning mechanic shall work only under the direct personal supervision and control of a licensed master mechanic.

(b) An applicant for licensure as a master mechanic shall establish to the satisfaction of the Board of Industrial Trades that the applicant has been employed installing, maintaining, repairing and replacing refrigeration and air conditioning equipment systems larger than 25 compressor horsepower or the equivalent tons of refrigeration in the aggregate for a period of at least 5 consecutive years immediately preceding the date of application, as verified in writing by a master mechanic.

(c) An applicant for licensure as a master mechanic limited shall establish to the satisfaction of the Board of Industrial Trades that the applicant:

(1) Has been employed installing, maintaining, repairing and replacing refrigeration and air conditioning equipment systems less than 25 compressor horsepower or the equivalent tons of refrigeration in the aggregate for a period of at least 5 consecutive years immediately preceding the date of application, as verified in writing by a master mechanic, and

(2) Have proof of chlor fluoro carbon certification.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.202. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For 2801.

### § 47-2853.203. Certain representations prohibited.

Unless licensed in accordance with this subchapter, no person shall use the words or terms “air conditioning mechanic,” “refrigeration mechanic,” “licensed air conditioning mechanic,” “licensed refrigeration mechanic,” “master mechanic,” or any combination of those words to imply that the person is licensed to perform the services of a refrigeration and air conditioning mechanic in the District.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.203. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For 2801.

## PART R.

### STEAM AND OTHER OPERATING ENGINEERS.

### § 47-2853.211. Scope of practice for steam and other operating engineers.

(a) For the purposes of this part, the term “steam engineer” means a person

who maintains, inspects and operates steam or hot water boilers, boiler room auxiliary equipment such as pumps, condensate and derating water tanks, blowdown tanks, burners, fuel systems, steam and gas turbines, steam pumps, air compressors, hot water heaters, boiler room electrical systems, chiller room or refrigeration equipment such as centrifugal chillers, reciprocating absorption chillers, air conditioning and refrigeration auxiliaries such as cooling towers, pumps and controls, electrical generators, appliances using gas, liquid fuel, solid fuel or waste heat.

(b) The term “operating engineer” means a person who operates and maintains cranes, backhoes, bulldozers, air compressors, concrete pumps, derricks, clams or any construction heavy equipment used for hoisting, demolition, digging or earth moving.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.211. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For

## § 47-2853.212. Eligibility requirements.

An applicant for licensure as a steam or other operating engineer shall establish to the satisfaction of the Board of Industrial Trades that:

(1) For a steam engineer, the applicant has the requisite experience and knowledge to operate steam or hot water boilers for the class of licensure applied for, as determined by the Board of Industrial Trades by regulation; and

(2) For an operating engineer, the applicant has the requisite experience and knowledge to operate heavy equipment of the class for which licensure is sought, as determined by the Board of Industrial Trades.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.212. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For

## § 47-2853.213. Certain representations prohibited.

Unless licensed in accordance with this subchapter, no person may use the words or terms “steam engineer,” “licensed steam engineer,” “steam operating engineer,” “licensed steam operating engineer,” “operating engineer,” or “licensed operating engineer” to imply that the person is authorized to perform the services of a steam or other operating engineer in the District.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.213. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For



## PART S.

## TRANSITIONAL PROVISIONS.

**§ 47-2853.221. Transfer of personnel, records, property, and funds.**

(a) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Board of Architecture and the Board of Interior Designers are transferred to the Board of Architecture and Interior Designers established by this subchapter.

(b) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Board of Accountancy are transferred to the Board of Accountancy established by § 47-2853.06.

(c) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Board of Barber and Cosmetology are transferred to the Board of Barber and Cosmetology established by § 47-2853.06.

(d) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the District of Columbia Plumbing Board, the District of Columbia Refrigeration and Air Conditioning Board, District of Columbia Steam and Other Operating Engineers Board, and the District of Columbia Electrical Board are transferred to the Board of Industrial Trades established by § 47-2853.06.

(e) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the District of Columbia Board of Registration for Professional Engineers are transferred to the Board of Professional Engineering established by § 47-2853.06.

(f) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Board of Appraisers are transferred to the Board of Real Estate Appraisers established by § 47-2853.06.

(g) The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to the functions of the Real Estate Commission of the District of Columbia are transferred to the Board of Real Estate established by § 47-2853.06.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.221. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-

**Legislative history of Law 12-261.** — For 2801.

**§ 47-2853.222. Service by members of abolished boards.**

Members of boards abolished by this subchapter shall serve as members of the successor boards to which their functions are transferred until the

expiration of their terms or the appointment of their successors, whichever occurs first. In any case where there is no successor board, or where the activities of two or more boards have been combined, or where more than one member of a prior board or board is eligible for a single seat on a new board, the Mayor shall make the determination as to which member of the former board or board, if any, shall be seated on a new board. The determination of the Mayor shall be final and shall not be reviewable in any court.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.222. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For

### § 47-2853.223. Abatement of existing proceedings; previously enacted rules and orders.

(a) No suit, action, or other judicial proceeding lawfully commenced by or against any board specified in this subchapter, or against any member, officer or employee of the board in the official capacity of the officer or employee, shall abate by reason of the taking effect of this subchapter, but the court or agency, unless it determines that survival of the suit, action, or other proceeding is not necessary for purposes of settlement of the question involved, shall allow the suit, action, or other proceeding to be maintained, with substitutions as to parties as are appropriate.

(b) No disciplinary action against a person engaged in a profession or occupation regulated by this subchapter initiated by a professional or other administrative body or any other proceeding lawfully commenced shall abate solely by reason of the taking effect of any provision of this subchapter, but the action or proceeding shall be continued with substitutions as to parties and officers or agencies as are appropriate.

(c) Except as otherwise provided in this subchapter, all rules and orders promulgated by the boards abolished by this subchapter shall continue in effect and shall apply to their successor board until the rules or orders are repealed or superseded.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2853.223. legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 12-261.** — For

### § 47-2853.224. Transfers from former boards.

The personnel, records, property, and unexpended balances of appropriations and other funds which relate primarily to former boards shall be transferred to the boards established by this subchapter.

(Apr. 20, 1999, D.C. Law 12-261, § 1002, 46 DCR 3142.)



**Prior Codifications.** — 1981 Ed., § 47-2853.224.

**Legislative history of Law 12-261.** — For

legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

### *Subchapter I-C. Trade Names.*

## **§ 47-2855.01. Definitions.**

For the purposes of this subchapter:

(1) “Business” means business as defined in § 47-2851.01(1) [now § 47-2851.01(1B)].

(2) “Department” means the Department of Consumer and Regulatory Affairs.

(3) “Director” means the Director of the Department of Consumer and Regulatory Affairs.

(4) “Executed” means the signing of a document by a person under penalties of perjury and in an official and authorized capacity on behalf of the person submitting the document to the Department.

(5) “Person” means any individual, partnership, limited liability company, or corporation conducting or having an interest in a business in the District of Columbia.

(6) “Trade name” means a word or name, or any combination of a word or name, used by a person to identify the person’s business which:

(A) Is not, or does not include, the true and real name of all persons conducting the business; or

(B) Includes words which suggest additional parties of interest such as “company”, “and sons”, or “and associates”.

(7) “True and real name” means:

(A) The surname of an individual coupled with one or more of the individual’s other names, one or more of the individual’s initials, or any combination thereof;

(B) The designation or appellation by which an individual is best known and called in the business community where that individual transacts business, if this is used as that individual’s legal signature;

(C) The registered corporate name of a domestic corporation as filed with the Mayor;

(D) The registered corporate name of a foreign corporation authorized to do business within the District of Columbia as filed with the Mayor;

(E) The registered partnership name of a domestic limited partnership as filed with the Mayor;

(F) The registered partnership name of a foreign limited partnership as filed with the Mayor; or

(G) The name of a general partnership which includes in its name the true and real names, as defined in subparagraphs (A) through (F) of this paragraph, of each general partner as required in § 47-2855.03.

(Apr. 20, 1999, D.C. Law 12-261, § 2005(b), 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2855.1.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Short title.** — Short title of title II of Law 12-261: Section 2001 of D.C. Law 12-261 provided that title II of the act may be cited as the “Business Regulatory Reform Act of 1998.”

## CASE NOTES

### Trade name.

Business’s name, consisting of sole proprietor’s last name plus “innovations company,” constituted “trade name” under District of Columbia law, even though there were no additional parties of interest beyond sole proprietor, and thus name was required to be registered in

order for business to maintain any suit; governing statute expressly provided that “company” was word that suggested additional parties of interest and would bring business within definition of “trade name.” *Hunter Innovations Co. v. Travelers Indem. Co.*, 605 F.Supp.2d 170, 2009 U.S. Dist. LEXIS 28978 (2009).

## § 47-2855.02. Registration required.

(a) A person who carries on, conducts, or transacts business in the District of Columbia under any trade name shall register that trade name with the Department as follows:

(1) A sole proprietorship or general partnership shall register by setting forth the true and real name or names of each person comprising the sole proprietorship or general partnership, the post office address or addresses of each person, and the name of the general partnership, if applicable.

(2) A foreign or domestic limited partnership shall register by setting forth the limited partnership name as filed with the Mayor.

(3) A foreign or domestic limited liability company shall register by setting forth the limited liability company name as filed with the Mayor.

(4) A foreign or domestic corporation shall register by setting forth the corporate name as filed with the Mayor.

(b) The registration shall be executed by:

(1) The sole proprietor of a sole proprietorship;

(2) A general partner of a domestic or foreign general or limited partnership; or

(3) An officer of a domestic or foreign corporation.

(Apr. 20, 1999, D.C. Law 12-261, § 2005(b), 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2855.2.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Short title.** — Short title of title II of Law 12-261: See Historical and Statutory Notes following § 47-2855.01.

## CASE NOTES

### Sole proprietor.

Business’s name, consisting of sole proprietor’s last name plus “innovations company,” constituted “trade name” under District of Columbia law, even though there were no additional parties of interest beyond sole proprietor,

and thus name was required to be registered in order for business to maintain any suit; governing statute expressly provided that “company” was word that suggested additional parties of interest and would bring business within definition of “trade name.” *Hunter Innovations Co.*



v. Travelers Indem. Co., 605 F.Supp.2d 170, 2009 U.S. Dist. LEXIS 28978 (2009).

### § 47-2855.03. Changes in registration; filing amendment.

(a) An executed amendment to a registration shall be filed with the Department when a change occurs in any of the following:

(1) The true and real name of a person conducting a business with a trade name registered under this subchapter; or

(2) The mailing address set forth on the registration or on a subsequently filed amendment.

(b) A notice of cancellation shall be filed with the Department when use of a trade name is discontinued.

(c) A notice of cancellation, together with a new registration, shall be filed before conducting or transacting any business when:

(1) An addition, deletion, or any change of person or persons conducting business under the registered trade name occurs; or

(2) There is a change in the wording or spelling of the trade name.

(d) No person carrying on, conducting, or transacting business under any trade name shall be entitled to maintain any suit in any of the courts of the District of Columbia until the person has properly completed the registration as provided for in this section.

(e) Failure to complete this registration shall not impair the validity of any contract or act of such person or persons and shall not prevent such person or persons from defending any suit in any court of the District.

(Apr. 20, 1999, D.C. Law 12-261, § 2005(b), 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2855.3.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Short title.** — Short title of title II of Law 12-261: See Historical and Statutory Notes following § 47-2855.01.

### CASE NOTES

#### ANALYSIS

In general.

Registration required.

#### In general.

Trade name owner's alleged commercial inactivity and inability to suffer loss of profits or other injury did not preclude it from enforcing its rights under consent decree that prohibited competitor from conducting business in the District of Columbia in the owner's corporate name, although the owner's alleged dormancy might have been relevant if the issue had been the right to an injunction against competitor in the first place; the competitor had consented to the injunction, and the settlement agreement entitled the owner to competitor's profits without proof of actual injury. *Fed. Mktg. Co. v. Va.*

*Impression Prods. Co.*, 823 A.2d 513, 2003 D.C. App. LEXIS 288 (2003).

Lack of injury to trade name owner since it allegedly was commercially inactive and was not using the name was no defense to civil contempt against competitor for violating consent decree that prohibited competitor from conducting business in the District of Columbia in the owner's corporate name; the settlement agreement entitled the owner to competitor's profits without proof of actual injury if the competitor conducted business in the District of Columbia using owner's name. *Fed. Mktg. Co. v. Va. Impression Prods. Co.*, 823 A.2d 513, 2003 D.C. App. LEXIS 288 (2003).

#### Registration required.

Business's name, consisting of sole proprietor's last name plus "innovations company,"

constituted “trade name” under District of Columbia law, even though there were no additional parties of interest beyond sole proprietor, and thus name was required to be registered in order for business to maintain any suit; governing statute expressly provided that “company”

was word that suggested additional parties of interest and would bring business within definition of “trade name.” *Hunter Innovations Co. v. Travelers Indem. Co.*, 605 F.Supp.2d 170, 2009 U.S. Dist. LEXIS 28978 (2009).

## § 47-2855.04. Rules; fees.

(a) The Mayor shall adopt rules as necessary to administer this subchapter. The rules may include the specifying of forms and the setting of fees for trade name registrations, amendments, searches, renewals, and copies of registration documents.

(b) Fees set pursuant to subsection (a) of this section shall not exceed the actual cost of administering this title [subchapter]; provided, that

(1) For expedited same-day service, there shall be a fee of \$100 in addition to other fees required by statute or rule;

(2) For expedited 3-day service, there shall be a fee of \$50 in addition to other fees required by statute or rule.

(Apr. 20, 1999, D.C. Law 12-261, § 2005(b), 46 DCR 3142; Mar. 3, 2010, D.C. Law 18-111, § 2041(d), 57 DCR 181.)

**Prior Codifications.** — 1981 Ed., § 47-2855.4.

**Effect of amendments.** — D.C. Law 18-111 rewrote the section, which had read as follows: “The Mayor shall adopt rules as necessary to administer this subchapter. The rules may include the specifying of forms and the setting of fees for trade name registrations, amendments, searches, renewals, and copies of registration documents. Fees shall not exceed the actual cost of administering this subchapter.”

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2041(d) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of section, see § 2041(d) of Fiscal Year Budget Sup-

port Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-305.02.

**Short title.** — Short title of title II of Law 12-261: See Historical and Statutory Notes following § 47-2855.01.

**Delegation of Authority.** — Delegation of Rulemaking Authority Pursuant to DC Law 12-261, the Business Regulatory Reform Act of 1998, see Mayor’s Order 2001-123, August 9, 2001 (48 DCR 7814).

## § 47-2855.05. Collection and deposit of fees.

All fees collected by the Department under this subchapter shall be deposited with the D.C. treasurer and credited to the master [basic] business license fund as defined in § 47-2851.13.

(Apr. 20, 1999, D.C. Law 12-261, § 2005(b), 46 DCR 3142.)

**Prior Codifications.** — 1981 Ed., § 47-2855.5.

**Legislative history of Law 12-261.** — For legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2801.

**Short title.** — Short title of title II of Law 12-261: See Historical and Statutory Notes following § 47-2855.01.



*Subchapter II. Clean Hands Before Receiving a License or Permit.*

## § 47-2861. Definitions.

For the purposes of this subchapter, the term:

(1)(A) “Applicant” means:

(i) An individual, business, or other entity that applies for the license or permit; and

(ii) Any person that owns a majority interest in the business or other entity; provided, that this sub-subparagraph shall not apply to a majority interest in a publicly-traded corporation.

(B) For the purposes of this paragraph, the term “majority interest” means:

(i) In the case of a corporation, more than 50% of the total combined voting power of all classes of stock of the corporation or more than 50% of the total value of all of the corporation;

(ii) In the case of a partnership, or entity treated as a partnership, more than 50% of the total interest in the capital or profits of a partnership or entity treated as a partnership; or

(iii) In the case of a trust, more than 50% of the beneficial interest in a trust.

(1A) “District government” means the Mayor, any executive branch or independent agency except the courts, the District of Columbia Water and Sewer Authority, or any board or commission other than the Alcohol Beverage Control Board.

(1B) “District of Columbia Water and Sewer Authority service fees” or “service fees” means all fees or charges, including penalty and interest, billed by the District of Columbia Water and Sewer Authority.

(2) “License” and “permit” means any license or permit issued by the District government, except that the terms “license” and “permit” shall not include:

(A) Any license or permit required pursuant § 6-1401 et seq.; or

(B) Any license or permit determined by the Mayor to be necessary to secure, remove, or otherwise remedy an unsafe and hazardous condition that presents an immediate threat to public health or safety.

(3) “Mayor” means the Mayor of the District of Columbia.

(4) “Taxes” means any tax or fee, including any penalties or interest associated with such tax or fee, administered by the District of Columbia Department of Finance and Revenue or its successor agency.

(May 11, 1996, D.C. Law 11-118, § 2, 43 DCR 1191; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Oct. 21, 2000, D.C. Law 13-183, § 2(b), 47 DCR 7062; Mar. 2, 2007, D.C. Law 16-192, § 1011(b), 53 DCR 6899.)

**Prior Codifications.** — 1981 Ed., § 47-2861.

**Effect of amendments.** — D.C. Law 13-183 added at the end of par. (1) “or the District of

Columbia Water and Sewer Authority”, and added par. (5).

D.C. Law 16-192 rewrote par. (1); redesignated former par. (1A) as (1B); and added par.

(1A). Prior to amendment, par. (1) read as follows: "(1) "District government" means the Mayor, any executive branch or independent agency excluding the courts, or any board or commission of the government of the District of Columbia or the District of Columbia Water and Sewer Authority."

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 1011(b) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see § 1011(b) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see § 1011(b) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

**Legislative history of Law 11-118.** — Law 11-118, the "Clean Hands Before Receiving a License or Permit Act of 1996," was introduced in Council and Assigned Bill No. 11-260, which

was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on January 4, 1996, and February 26, 1996, respectively. Signed by the mayor on February 26, 1996, it was assigned Act No. 11-222 and transmitted to both Houses of Congress for its review. D. C. Law 11-118 became effective on May 11, 1996.

**Legislative history of Law 13-183.** — For Law 13-183, see notes following § 47-2851.11.

**Legislative history of Law 16-192.** — For Law 16-192, see notes following § 47-313.

**Short title.** — Short title: Section 1010 of D.C. Law 16-192 provided that subtitle B of title I of the act may be cited as the Clean Hands Licensing Revision Act of 2006.

**References in text.** — Pursuant to the Office of the Chief Financial Officer's "Notice of Public Interest" published in the April 18, 1997, issue of the District of Columbia Register (44 DCR 2345) the Office of Tax and Revenue assumed all of the duties and functions previously performed by the Department of Finance and Revenue, as set forth in Commissioner's Order 69-96, dated March 7, 1969. This action was made effective January 22, 1997, nunc pro tunc.

## § 47-2862. Prohibition against issuance of license or permit.

(a) Notwithstanding any other provision of law, the District government shall not issue or reissue a license or permit to any applicant for a license or permit if the applicant:

(1) Owes the District more than \$100 in outstanding fines, penalties, or interest assessed pursuant to the following acts or any regulations promulgated under the authority of the following acts, the:

(A) Litter Control Administrative Act of 1985, effective March 25, 1986 (D.C. Law 6-100; D.C. Official Code § 8-801 et seq.) [Chapter 8 of Title 8];

(B) Illegal Dumping Enforcement Act of 1994, effective May 20, 1994 (D.C. Law 10-117; D.C. Official Code § 8-901 et seq.) [Chapter 9 of Title 8];

(C) District of Columbia Traffic Adjudication Act of 1978, effective September 12, 1978 (D.C. Law 2-104; D.C. Official Code § 50-2301.01 et seq.) [Chapter 23 of Title 50];

(D) Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985, effective October 5, 1985 (D.C. Law 6-42; D.C. Official Code § 2-1801.01 et seq.) [Chapter 18 of Title 2];

(E) District of Columbia Taxicab Commission Establishment Act of 1985, effective March 25, 1986 (D.C. Law 6-97; D.C. Official Code § 50-301 et seq.) [subchapter I of Chapter 3 of Title 50]; or

(F) The Compulsory/No-Fault Motor Vehicle Insurance Act of 1982, effective September 18, 1982 (D.C. Law 4-155; D.C. Official Code § 31-2401 et seq.) [Chapter 24 of Title 31];

(2) Owes the District more than \$100 in past due taxes;



(3) Owes fines assessed to car dealers pursuant to section 2(i) of the District of Columbia Revenue Act of 1937, approved August 17, 1937 (50 Stat. 680; D.C. Code § 50-1501.02(i));

(4) Owes parking fines or penalties assessed by another jurisdiction; provided, that a reciprocity agreement is in effect between the jurisdiction and the District;

(5) Owes past due District of Columbia Water and Sewer Authority service charges or fees; or

(6) Owes a vehicle conveyance fee, as that term is defined in § 50-2302.01(9).

(b) For purposes of this section, if: (A) the amount of outstanding debt over \$100 is subject to dispute, (B) the applicant has properly and timely appealed the infraction, assessment, tax, or basis for the alleged debt, and (C) the appeal is pending, then the outstanding debt shall not be cause for the District government to deny the issuance or reissuance of any license or permit pursuant to subsection (a) of this section. Nothing in this section shall be construed as allowing the nonpayment of any tax, fee, fine, penalty, or any other debt owed to the District government for which payment is required by other law.

(c) A license or permit shall not be denied pursuant to subsection (a) of this section if the applicant has agreed to a payment schedule to eliminate the outstanding debt, the payment schedule has been agreed to by the District government, the applicant is complying with the payment schedule, and the payment schedule is otherwise permitted by law.

(May 11, 1996, D.C. Law 11-118, § 3, 43 DCR 1191; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Mar. 24, 1998, D.C. Law 12-81, § 59(j), 45 DCR 745; Oct. 21, 2000, D.C. Law 13-183, § 2(c), 47 DCR 7062; Apr. 27, 2001, D.C. Law 13-289, § 601, 48 DCR 2057; Apr. 8, 2005, D.C. Law 15-307, § 201, 52 DCR 1700; Mar. 2, 2007, D.C. Law 16-191, §§ 81, 94, 53 DCR 6794; Mar. 2, 2007, D.C. Law 16-192, §§ 1011(c), 1013, 53 DCR 6899; Mar. 14, 2007, D.C. Law 16-279, § 209(b), 54 DCR 1086; Mar. 20, 2009, D.C. Law 17-303, § 2, 55 DCR 12803; Mar. 25, 2009, D.C. Law 17-353, § 164(a)(1), 56 DCR 1117.)

**Section references.** — This section is referred to in § 47-2863.

**Prior Codifications.** — 1981 Ed., § 47-2862.

**Effect of amendments.** — D.C. Law 13-183 added par. (5).

D.C. Law 13-289, in subsec. (a), added par. (6).

D.C. Law 15-307, in subsec. (a), added pars. (7), (8), and (9).

D.C. Law 16-191, in subsec. (a), validated previously made technical corrections in pars. (5) to (7), and inserted “or” at the end of par. (8), and repealed par. (9) which had read as follows: “(9) Fines assessed to pursuant to the Taxicab and Limousine Commission Establishment Amendment Act of 2004, as approved by the Committee on Public Works and the Environ-

ment on December 6, 2004 (Committee print of Bill 15-1085).”

D.C. Law 16-192, in subsec. (a), substituted “Notwithstanding any other provision of law except § 25-301(b), the District government shall not issue or reissue any license or permit to any applicant for a license or permit if the applicant has failed to file required District tax returns or” for “Notwithstanding any other provision of law, the District government shall not issue or reissue any license or permit to any applicant for a license or permit if the applicant”.

D.C. Law 16-279 rewrote subsec. (a), which formerly read:

“(a) Notwithstanding any other provision of law, the District government shall not issue or reissue any license or permit to any applicant for a license or permit if the applicant owes

more than \$100 in outstanding debt to the District as a result of:

“(1) Fines, penalties, or interest assessed pursuant to Chapter 8 of Title 8;

“(2) Fines or penalties assessed pursuant to Chapter 9 of Title 8;

“(3) Fines, penalties, or interest assessed pursuant to Chapter 18 of Title 2;

“(4) Past due taxes;

“(5) Past due District of Columbia Water and Sewer Authority service fees;

“(6) Fines or penalties assessed pursuant to Chapter 23 of Title 50;

“(7) Parking fines or penalties assessed by another jurisdiction; provided, that a reciprocity agreement is in effect between the jurisdiction and the District;

“(8) Fines assessed to car dealers pursuant to § 50-1501.02(i) ;

“(9) Fines assessed to pursuant to the Taxicab and Limousine Commission Establishment Amendment Act of 2004, as approved by the Committee on Public Works and the Environment on December 6, 2004 (Committee print of Bill 15-1085).”

D.C. Law 17-303, in subsec. (a), deleted “or” from the end of par. (4), substituted “; or” for a period at the end of par. (5), and added par. (6).

D.C. Law 17-353, in subsec. (a)(1)(F), inserted a semicolon at the end.

**Emergency legislation.** — For temporary (90 day) amendment of section, see §§ 1011(c), 1013 of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see §§ 1011(c), 1013 of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see §§ 13 and 20 of Finance and Revenue Technical Amendments Second Emergency Amendment Act of 2006 (D.C. Act 16-585, December 28, 2006, 54 DCR 340).

For temporary (90 day) amendment of section, see §§ 1011(c), 1013 of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

For temporary (90 day) amendment of section, see § 1054(b)(1) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 1054(b)(1) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

**Legislative history of Law 11-118.** — For legislative history of D.C. Law 11-118, see Historical and Statutory Notes following § 47-2861.

**Legislative history of Law 12-81.** — Law 12-81, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-408, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 4, 1997, and December 4, 1997, respectively. Signed by the Mayor on December 22, 1997, it was assigned Act No. 12-246 and transmitted to both Houses of Congress for its review. D.C. Law 12-81 became effective on March 24, 1998.

**Legislative history of Law 13-183.** — For Law 13-183, see notes following § 47-2851.11.

**Legislative history of Law 13-289.** — Law 13-289, the “Motor Vehicle and Safe Driving Amendment Act of 2000”, was introduced in Council and assigned Bill No. 13-828, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on November 8, 2000, and December 5, 2000, respectively. Signed by the Mayor on January 22, 2001, it was assigned Act No. 13-592 and transmitted to both Houses of Congress for its review. D.C. Law 13-289 became effective on April 27, 2001.

**Legislative history of Law 15-307.** — Law 15-307, the “Department of Motor Vehicles Reform Amendment Act of 2004”, was introduced in Council and assigned Bill No. 15-1011, which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on November 9, 2004, and December 7, 2004, respectively. Signed by the Mayor on December 29, 2004, it was assigned Act No. 15-704 and transmitted to both Houses of Congress for its review. D.C. Law 15-307 became effective on April 8, 2005.

**Legislative history of Law 16-191.** — For Law 16-191, see notes following § 47-2425.

**Legislative history of Law 16-192.** — For Law 16-192, see notes following § 47-2608.

**Legislative history of Law 16-279.** — For Law 16-279, see notes following § 47-2829.

**Legislative history of Law 17-303.** — Law 17-303, the “District of Columbia Vehicle Towing, Storage, and Conveyance Fee Act of 2008”, was introduced in Council and assigned Bill No. 17-394 which was referred to the Committee on Public Works and the Environment. The Bill was adopted on first and second readings on October 7, 2008, and November 18, 2008, respectively. Signed by the Mayor on December 9, 2008, it was assigned Act No. 17-591 and transmitted to both Houses of Congress for its review. D.C. Law 17-303 became effective on March 20, 2009.

**Legislative history of Law 17-353.** — For Law 17-353, see notes following § 47-308.

**References in text.** — The Taxicab and Limousine Commission Establishment Amendment Act of 2004 (Bill 15-1085), referred to in subsec. (a)(9), was never approved by the com-



mittee and after December 31, 2004, has no possibility of enactment.

### § 47-2863. Self-certification and enforcement (conditional).

(a)(1) This subchapter shall be enforced by self-certification by the applicant for a license or permit, provided that the veracity of the self-certification may be investigated upon the initiative of the District government at any time.

(2) At the time of application for a license or permit the applicant shall certify on a form provided by the District government that the applicant owes no outstanding debt over \$100 to the District government as a result of any fine, fee, penalty, interest, or past due tax as set forth in § 47-2862.

(3) Upon receipt of the applicant's certification that the issuance of the license or permit is not prohibited by this subchapter, the District government shall consider the application as otherwise provided by law, unless the government has information indicating that the applicant has not paid an outstanding debt under § 47-2862.

(b) Upon the implementation of the interagency computer system required by § 47-2866(a)(1), this section shall expire.

(May 11, 1996, D.C. Law 11-118, § 4, 43 DCR 1191; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Mar. 2, 2007, D.C. Law 16-192, § 1011(d), 53 DCR 6899; Mar. 14, 2007, D.C. Law 16-279, § 209(c), 54 DCR 903; Mar. 25, 2009, D.C. Law 17-353, § 164(a)(2), 56 DCR 1117.)

**Prior Codifications.** — 1981 Ed., § 47-2863.

**Effect of amendments.** — D.C. Law 16-192 redesignated former subsecs. (a), (b), and (c) as pars. (1), (2), and (3) of subsec. (a); and added subsec. (b).

D.C. Law 16-279 rewrote subsec. (a)(3) redesignated from subsec. (c) by Law 16-192, which formerly read:

“(c) Upon receipt of the applicant's certification that the issuance of the license or permit is not prohibited by this subchapter, the District government shall proceed to consider the application as otherwise provided by law.”

D.C. Law 17-353 validated a previously made technical correction in subsec. (a)(3).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 1011(d) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see § 1011(d) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see § 1011(d) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

**Legislative history of Law 11-118.** — For legislative history of D.C. Law 11-118, see Historical and Statutory Notes following § 47-2861.

**Legislative history of Law 16-192.** — For Law 16-192, see notes following § 47-2608.

**Legislative history of Law 16-279.** — For Law 16-279, see notes following § 47-2829.

**Legislative history of Law 17-353.** — For Law 17-353, see notes following § 47-308.

### § 47-2864. Penalties.

(a) If the District government determines at any time that an applicant knowingly falsified the certification required by this subchapter, the District government shall:

(1) Proceed immediately to revoke each license or permit, the application for which contains such a falsified certification; and

(2) Fine the applicant \$1,000 for each false certification.

(b) The penalties prescribed by this section shall be applicable only after the applicant is afforded an opportunity for a hearing by the agency which ordinarily would hold a hearing on a revocation of the affected license or permit, and these penalties shall be in addition to any other penalties available by law.

(c) Nothing in this subchapter shall preclude an applicant from submitting a new application for a license or permit.

(May 11, 1996, D.C. Law 11-118, § 5, 43 DCR 1191; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-2864.

legislative history of D.C. Law 11-118, see Historical and Statutory Notes following § 47-2861.

**Legislative history of Law 11-118.** — For

## § 47-2865. Remedies.

(a) A person whose license or permit is revoked pursuant to § 47-2864 shall have the same remedy for appeal as otherwise provided by law for the revocation of that license or permit.

(b) Nothing in this subchapter shall be construed as granting a new or separate right of appeal on the merits or validity of fines or penalties, or past due taxes, and any appeal of a denial or revocation pursuant to this subchapter shall not consider the merits or validity of the outstanding debt to the District.

(c) Any person whose application is denied pursuant to § 47-2862 may request a hearing within 10 days of the denial on the basis for that denial.

(May 11, 1996, D.C. Law 11-118, § 6, 43 DCR 1191; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Mar. 14, 2007, D.C. Law 16-279, § 209(d), 54 DCR 903.)

**Prior Codifications.** — 1981 Ed., § 47-2865.

**Effect of amendments.** — D.C. Law 16-279 rewrote subsec. (a); and added subsec. (c). Prior to amendment, subsec. (a) read:

“(a) An applicant whose application for a license or permit is either proposed for denial or revocation, or is denied or revoked, because of this subchapter, shall have the same remedy

for appeal as otherwise provided by law for the denial or revocation of the affected license or permit.”

**Legislative history of Law 11-118.** — For legislative history of D.C. Law 11-118, see Historical and Statutory Notes following § 47-2861.

**Legislative history of Law 16-279.** — For Law 16-279, see notes following § 47-2829.

## § 47-2866. Interagency computer system and enforcement.

(a)(1) On or before June 1, 2007, the Mayor shall implement an interagency computer system to enable government agencies, including the Department of Consumer and Regulatory Affairs, the Office of Tax and Revenue, and the Department of Public Works, to maintain and access up-to-date records of



outstanding fines, fees, penalties, interest, taxes, or other charges that may be owed by applicants for licenses or permits from the District government.

(2) At least 30 days prior to the implementation of the interagency computer system, the Mayor shall notify the Council of the date of implementation.

(b) Upon the implementation of the interagency computer system as required by subsection (a) of this section:

(1) All agencies responsible for issuing licenses or permits shall utilize the interagency computer system containing records of outstanding fines, fees, penalties, interest, taxes, or other charges owing to the District government to determine whether the application for a license or permit should be denied pursuant to § 47-2862(a);

(2) Self-certification authority shall no longer be authorized; and

(3) Section 47-2863 shall expire.

(c) For purposes of administering and enforcing any tax law in the District of Columbia, the Mayor may require any owner, occupant, or transferor of real property and any taxpayer to provide a social security number or other tax identification number on any return or in a form and manner as the Mayor prescribes. Any use or disclosure of these numbers shall be for tax administration and enforcement purposes only.

(d) The Chief Financial Officer may promulgate such rules as may be necessary and appropriate to carry out provisions of this subchapter.

(May 11, 1996, D.C. Law 11-118, § 7, 43 DCR 1191; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Mar. 2, 2007, D.C. Law 16-192, § 1011(e), 53 DCR 6899.)

**Prior Codifications.** — 1981 Ed., § 47-2866.

**Effect of amendments.** — D.C. Law 16-192 rewrote the section.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 1011(e) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see § 1011(e) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see § 1011(e) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

For temporary (90 day) amendment of section, see § 1054(b)(2) of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see § 1054(b)(2) of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

**Legislative history of Law 11-118.** — For legislative history of D.C. Law 11-118, see Historical and Statutory Notes following § 47-2861.

**Legislative history of Law 16-192.** — For Law 16-192, see notes following § 47-2608.

**References in text.** — Pursuant to the Office of the Chief Financial Officer's "Notice of Public Interest" published in the April 18, 1997, issue of the District of Columbia Register (44 DCR 2345) the Office of Tax and Revenue assumed all of the duties and functions previously performed by the Department of Finance and Revenue, as set forth in Commissioner's Order 69-96, dated March 7, 1969. This action was made effective January 22, 1997, nunc pro tunc.

*Subchapter III. Permit and License Application Forms.*

**§ 47-2881. Placement of Inspector General hotline in permit and license application forms.**

(a) *In general.* — Each District of Columbia permit or license application form printed after the expiration of the 30-day period which begins on the date of the enactment of this Act shall include the telephone number established by the Inspector General of the District of Columbia for reporting instances of waste, fraud, and abuse, together with a brief description of the uses and purposes of such number.

(b) *Quarterly reports on use of number.* — Not later than 10 days after the end of such calendar quarter of each fiscal year (beginning with fiscal year 1998), the Inspector General of the District of Columbia shall submit a report to Congress on the number and nature of the calls received through the telephone number described in subsection (a) of this section during the quarter and on the waste, fraud, and abuse detected as a result of such calls.

(Nov. 19, 1997, 111 Stat. 2185, Pub. L. 105-100, § 155; Apr. 20, 1999, D.C. Law 12-264, § 52(u), 46 DCR 2118.)

**Prior Codifications.** — 1981 Ed., § 47-2881.

**Legislative history of Law 12-264.** — Law 12-264, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-804, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively.

Signed by the Mayor on January 7, 1999, it was assigned Act No. 12-626 and transmitted to both Houses of Congress for its review. D.C. Law 12-264 became effective on April 20, 1999.

**References in text.** — “This Act,” referred to in (a), is the District of Columbia Appropriations Act, 1998, approved November 19, 1997, Pub. L. 105-100, 111 Stat. 2160.

*Subchapter IV. Other Licenses.*

PART A.

HOME IMPROVEMENT BUSINESSES.

**§ 47-2883.01. Bonding of persons engaged in home improvement business; definitions.**

The Council of the District of Columbia is authorized, in connection with the licensing of persons engaged in the home improvement business, whether as principal, agent, salesman, employee, or otherwise, to require the furnishing of bond as a condition to the issuance of such license. For the purposes of this part, the term “home improvement business” means the repair, remodeling, alteration, conversion, or modernization of, or addition to, residential property, all as may be more particularly defined in regulations promulgated by the Council. Such bonding may be required notwithstanding the fact that a person may also be subject to the bonding requirements of any other law.



(Sept. 6, 1960, 74 Stat. 815, Pub. L. 86-715, § 1.)

**Cross references.** — Regulation, modification, or elimination of license requirements, see § 47-2842.

**Prior Codifications.** — 1981 Ed., § 2-501. 1973 Ed., § 2-2301.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(78) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners

under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## CASE NOTES

### ANALYSIS

Absence of license.  
Home improvement contractors.  
Limitations.

#### Absence of license.

Rule that illegal contract is void and confers no right on the wrongdoer applies to contractor who breaches regulation requiring that persons engaged in home improvement have a home improvement contractor's license. D.C. Code 1981, §§ 2-501, 47-2842, 47-2844. *Capital Constr. Co. v. Plaza West Coop. Ass'n*, 604 A.2d 428, 1992 D.C. App. LEXIS 66 (1992).

Under regulations promulgated pursuant to Home Improvement Business Act that no person shall accept any payment under home improvement contract "in advance of the full completion of all of the work required to be performed by such contract" unless such person is licensed as home improvement contractor, absence of a license is relevant only where contractor requires or accepts payment in advance of full completion of contracted work. D.C. Code 1961, § 2-2301. *Hoffheins v. Heslop*, 210 A.2d 841, 1965 D.C. App. LEXIS 205 (App. 1965).

The purpose of licensing statutes would be frustrated if recovery were permitted for work performed without a license, or when the contract is entered before the issuance of a license, or when some of the preliminary work is done before a license is issued, and a balance of the work is completed after the license has issued. *Cevern, Inc. v. Ferbish*, 120 WLR 2645 (Super. Ct. 1992).

#### Home improvement contractors.

Person involved in restoration and renovation of home did not act as a "home improvement contractor" so as to render contract void on ground that he was neither licensed nor

bonded under the Home Improvement Business Act, where such person was hired as a consultant for an hourly fee, and to provide furnishings which did not become part of the realty, and, though personally doing some of the work, did not assume ultimate responsibility for completion of any part of the renovation, and another person was acting as general contractor. D.C. Code 1981, §§ 2-501 et seq., 17-305(a). *Karr v. C. Dudley Brown & Associates, Inc.*, 567 A.2d 1306, 1989 D.C. App. LEXIS 265 (1989).

#### Limitations.

Homeowners' argument that fraudulent concealment tolled running of statute of limitations on their actions against unlicensed home improvement contractor to recover advance payments was not preserved for appeal where homeowners did not allege that they were affirmatively misled or cite facts which would have allowed trial court to infer that fraud might have occurred. D.C. Code 1981, §§ 2-501, 2-502, 12-301(8); Civil Rules 9(b), 12-1(k), 56(e). *Woodruff v. McConkey*, 524 A.2d 722, 1987 D.C. App. LEXIS 333 (1987).

Home improvement contractor's failure to obtain license, not any fraudulent concealment, formed basis of homeowners' actions to recover advance payments and, therefore, doctrine of fraudulent concealment did not toll running of statute of limitations. D.C. Code 1981, §§ 2-501, 2-502, 12-301(8). *Woodruff v. McConkey*, 524 A.2d 722, 1987 D.C. App. LEXIS 333 (1987).

Occurrence of advance payments from homeowner to unlicensed home improvement contractor within three years of suit to recover those payments did not permit homeowner to recover for payments made more than three years before suit was filed; rather, each payment involved separate violation of home im-

provement contract or licensing regulation on which statute of limitations ran separately. D.C. Code 1981, §§ 2-501, 2-502, 12-301(8). *Woodruff v. McConkey*, 524 A.2d 722, 1987 D.C. App. LEXIS 333 (1987).

Although violation of home improvement licensing regulation occurs when contractor enters home improvement contract which requires advance payment, cause of action to recover payments does not accrue until home owners make payments; until that time there is no money to recover and no injury for cause of action. D.C. Code 1981, §§ 2-501, 2-502, 12-301(8). *Woodruff v. McConkey*, 524 A.2d 722, 1987 D.C. App. LEXIS 333 (1987).

Date on which unlicensed home improvement contractor may have breached contract with homeowners was irrelevant to determining whether statute of limitations had run on

homeowners' actions to recover advance payments made to contractor, which was based solely upon unlicensed status of contractor, and not on deficient construction. D.C. Code 1981, §§ 2-501, 2-502, 12-301(8). *Woodruff v. McConkey*, 524 A.2d 722, 1987 D.C. App. LEXIS 333 (1987).

Discovery rule did not apply to claims based on unlicensed status of home improvement contractor where ordinary lay person could have discovered absence of license, where injury occurred at time of signing of contract and remained the same over time, where homeowners would still have opportunity to bring suit for damages for deficient construction, and where judicial economy favored timely adjudication. D.C. Code 1981, §§ 2-501, 2-502, 12-301(8). *Woodruff v. McConkey*, 524 A.2d 722, 1987 D.C. App. LEXIS 333 (1987).

## § 47-2883.02. Bond requirements.

(a) The Council of the District of Columbia may, from time to time, and in its discretion, establish classes and subclasses of persons licensed to engage in the home improvement business and specify the amount and conditions of the bond or other security acceptable to the Council to be deposited by each of the members of any such class or subclass. In connection with the licensing of persons to engage in the home improvement business, and the bonding of the members of any such class or subclass of such persons, the Council, in its discretion, may by regulation require applicants for licenses or licensees:

(1) To furnish and keep in force a bond or bonds running to the District, or other security acceptable to the Council, to protect members of the public against financial loss by reason of the failure of the licensee or of any officer, agent, employee, salesman, or other person acting on behalf of said licensee, to observe any law or regulation in force in the District of Columbia applicable to the licensee's conduct of the licensed business;

(2) To procure and keep in force public liability insurance or property damage insurance, or both; and

(3) To appoint the Mayor as their true and lawful attorney upon whom all judicial and other process or legal notice directed to such person may be served.

(b) The bonds authorized by this section shall be corporate surety bonds in amounts to be fixed by the Council, but no bond shall exceed \$25,000, and such bond shall be conditioned upon the observance by the licensee and any officer, agent, employee, salesman, or other person acting on behalf of said licensee, of all laws and regulations in force in the District applicable to the licensee's conduct of the licensed business, for the benefit of any person who may suffer damages resulting from the violation of any such law or regulation by or on the part of such licensee or any officer, agent, employee, salesman, or other person acting on behalf of the licensee.

(c) Any person aggrieved by the violation of any law or regulation applicable to the licensee's conduct of the licensed activity shall have, in addition to his right of action against such licensee, a right to bring suit against the surety on



a bond authorized by this section, either alone or jointly with the principal thereon, and to recover in an amount not exceeding the penalty of the bond any damages sustained by reason of any act, transaction, or conduct of the licensee, or of any officer, agent, employee, salesman, or other person acting on behalf of said licensee, which is in violation of law or regulation in force in the District relating to the licensed activity. The provisions of the second, third, and fifth paragraphs of subsection (b) of § 1-301.01 shall be applicable to each bond authorized by this section as if it were the bond authorized by the first paragraph of such subsection (b) of § 1-301.01; provided, that nothing in this subsection shall be construed to impose upon the surety on any such bond a greater liability than the total amount thereof or the amount remaining unextinguished after any prior recovery or recoveries.

(Sept. 6, 1960, 74 Stat. 815, Pub. L. 86-715, § 2.)

**Prior Codifications.** — 1981 Ed., § 2-502. 1973 Ed., § 2-2302.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(79, 80) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commis-

sioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### § 47-2883.03. Payment as defense to assertion of lien.

In any case in which a property owner or occupant has entered into a contract with a person offering to perform or to arrange for the performance of home improvement work, and such property owner or occupant makes payment for such work to the person offering to perform or arrange for the performance of the same, proof of such payment shall constitute a defense against, and render void, any lien sought to be asserted under the authority of subchapter I of Chapter 3 of Title 40, and § 40-303.01.

(Sept. 6, 1960, 74 Stat. 816, Pub. L. 86-715, § 3.)

**Prior Codifications.** — 1981 Ed., § 2-503. 1973 Ed., § 2-2303.

### § 47-2883.04. Penalty.

Any person who shall violate any provision of this part or of any regulation promulgated by the Mayor under the authority of this part shall be guilty of a misdemeanor and shall be punished by a fine not exceeding \$300 or by imprisonment for not more than 90 days, or both. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this part, or any rules or regulations issued under the authority

of this part, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this part shall be pursuant to Chapter 18 of Title 2.

(Sept. 6, 1960, 74 Stat. 816, Pub. L. 86-715, § 4; Oct. 5, 1985, D.C. Law 6-42, § 433(a), 32 DCR 4450.)

**Prior Codifications.** — 1981 Ed., § 2-504. 1973 Ed., § 2-2304.

**Legislative history of Law 6-42.** — Law 6-42, the “Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985,” was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of

Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 47-2883.05. Prosecutions to be conducted by Attorney General for the District of Columbia.

Prosecutions for violations of this part, or of the regulations made pursuant thereto, shall be conducted in the name of the District by the Attorney General for the District of Columbia or any of his assistants. As used in this part, the term “Attorney General for the District of Columbia” means the attorney for the District, by whatever title such attorney may be known, designated by the Mayor to perform the functions prescribed for the Attorney General for the District of Columbia in this part. Adjudication of civil infractions shall be pursuant to Chapter 18 of Title 2.

(Sept. 6, 1960, 74 Stat. 816, Pub. L. 86-715, § 5; Oct. 5, 1985, D.C. Law 6-42, § 433(b), 32 DCR 4450; Apr. 13, 2005, D.C. Law 15-354, § 74, 52 DCR 2638.)

**Prior Codifications.** — 1981 Ed., § 2-505. 1973 Ed., § 2-2305.

**Effect of amendments.** — D.C. Law 15-354 substituted “Attorney General for the District of Columbia” for “Corporation Counsel”.

**Legislative history of Law 6-42.** — For legislative history of D.C. Law 6-42, see Historical and Statutory Notes following § 47-28803.04.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmen-

tal Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.



## § 47-2883.06. Authority and power of Mayor deemed supplementary.

The authority and power vested in the Mayor by any provision of this part shall be deemed to be additional and supplementary to authority and power now vested in him, and not as a limitation.

(Sept. 6, 1960, 74 Stat. 816, Pub. L. 86-715, § 6.)

**Prior Codifications.** — 1981 Ed., § 2-506.  
1973 Ed., § 2-2306.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 47-2883.07. Severability.

If any provision of this part or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or the application of this part which can be effected without the invalid provision or application, and to this end the provisions of this part are severable.

(Sept. 6, 1960, 74 Stat. 816, Pub. L. 86-715, § 7.)

**Prior Codifications.** — 1981 Ed., § 2-507. 1973 Ed., § 2-2307.

### PART B.

#### PAWNBROKERS.

## § 47-2884.01. Definitions.

As used in this part:

(1) The term "person" means an individual, firm, voluntary association, joint-stock company, incorporated society, or corporation.

(2) The term "District" means the District of Columbia.

(3) The term "Mayor" means the Mayor of the District or the agent or agents designated by him to perform any function vested in the Mayor by this part; provided, that for the purposes of subsection (e) of § 47-2884.07 no such agent shall, by way of appeal, review his own action, decision, or ruling.

(4) The term "pawnbroker" means any person who shall in any manner lend or advance money or other things for profit on pledge and possession of personal property or other valuable thing, other than securities or written or printed evidences of indebtedness or who deals in the purchasing of personal

property or other valuable thing on condition of selling the same back again at a stipulated price, and shall include all pawnbrokers referred to in §§ 5-117.01, 5-117.02, and 5-117.03.

(Aug. 6, 1956, 70 Stat. 1036, ch. 970, § 1.)

**Prior Codifications.** — 1981 Ed., § 2-1901. 1973 Ed., § 2-2001.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 47-2884.02. License required; display of sign or emblem.

(a) No person shall engage in business as a pawnbroker except as authorized in this part and without first obtaining a license from the Mayor as hereinafter provided.

(b) No person, other than a licensee under this part, shall display any sign or other device in or about any business premises, or in any advertising matter, which in any manner resembles the emblem or sign commonly used by pawnbrokers nor display any sign which is calculated to deceive, nor use the word 'pawnbroker' in or about any business premises or in any advertising matter, nor shall any such person hold himself out to the public to be a pawnbroker either by advertising, soliciting, signs, or otherwise.

(Aug. 6, 1956, 70 Stat. 1036, ch. 970, § 2.)

**Prior Codifications.** — 1981 Ed., § 2-1902. 1973 Ed., § 2-2002.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 47-2884.03. Appointment of Mayor as attorney; application for license; cash capital; application fee; endorsement to master business license.

(a) No license shall be issued to any person unless and until such person shall, in writing and in the form prescribed by the Mayor, appoint the Mayor as his true and lawful attorney upon whom all judicial and other process or



legal notice directed to such person may be served. A copy of any such process or notice so served upon the Mayor shall be forthwith sent by registered mail by the plaintiff or his attorney to the defendant at his residence or his place of business.

(b) Each application for a license under this part shall be in writing, under oath or affirmation, to the Mayor in such form as he may prescribe. Such application shall contain:

(1) In the case of an individual, his name and the address of his residence and place of business;

(2) In the case of a firm or voluntary association, the name and address of every member thereof and the address of the place where such business is to be conducted;

(3) In the case of a joint-stock company, incorporated society, or corporation, the names and addresses of the officers and directors thereof and the address of the place where such business is to be conducted; and

(4) Such additional information as the Council of the District of Columbia may prescribe.

(c) Each applicant shall prove to the satisfaction of the Mayor that he has available, for use in the business of making loans authorized by this part at the location specified in his application, cash capital of at least \$20,000.

(d) Upon the filing of any such application the applicant shall pay to the Mayor the sum of \$50 as a fee for investigating the application, which sum shall be retained by the District whether such application is approved or disapproved.

(e) Any license issued pursuant to this part shall be issued as an Inspected Sales and Services endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(f) No license shall be issued to any person unless:

(1) At least 30 days prior to the issuance of a license, all affected Advisory Neighborhood Commissions have been provided notice that a pawnbroker license application has been submitted to the Mayor; provided, that this paragraph shall not apply to applications for a renewal of a pawnbroker license; and

(2) The opinion of all affected Advisory Neighborhood Commissions have been accorded great weight during deliberations to approve or deny the license application.

(Aug. 6, 1956, 70 Stat. 1036, ch. 970, § 3; Apr. 20, 1999, D.C. Law 12-261, § 2003(c), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(4)(Y), 50 DCR 6913; Mar. 12, 2011, D.C. Law 18-315, § 4(a), 57 DCR 12412.)

**Prior Codifications.** — 1981 Ed., § 2-1903. 1973 Ed., § 2-2003.

**Effect of amendments.** — D.C. Law 15-38, in subsec. (e), substituted “an Inspected Sales and Services endorsement to a basic business license under the basic” for “a Class A Inspected Sales and Services endorsement to a master business license under the master”.

D.C. Law 18-315 added subsec. (f).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(hh)(4)(Y) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 12-261.** — Law 12-261, the “Second Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-845, which

was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

**Legislative history of Law 18-315.** — Law 18-315, the “Alternative Money Lending and Services Reform Amendment Act of 2010”, was introduced in Council and assigned Bill No. 18-715, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on November 9, 2010, and November 23, 2010, respectively. Signed by the Mayor on December 9, 2010, it was assigned Act No. 18-636 and transmitted to both Houses of Congress for its review. D.C. Law 18-315 became effective on March 12, 2011.

**Change in Government.** — This section

originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(70) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 47-2884.04. Bond.

(a) Each applicant shall file with his application a bond running to the District in the sum of \$5,000 with 2 or more sufficient sureties, whose liability as such securities shall not exceed the said sum in the aggregate; except that the execution of any such bond by a fidelity or surety company authorized by the laws of the United States to transact business in the District shall be equivalent to the execution thereof by 2 sureties, but such company, if excepted to, shall justify in the manner required by law of fidelity and surety companies. Such bond shall be approved by the Mayor and conditioned upon the compliance by the applicant with all the provisions of this part and all rules and regulations lawfully made pursuant thereto. Any person injured by the noncompliance with any such provision, rule, or regulation by any licensee under this part may maintain a suit in his own name in any court of competent jurisdiction and recover on the bond such damages as shall be adjudged by such court together with costs of such suit. Recovery upon any such bond shall not preclude recovery against such licensee for any liability in excess of the amount recovered upon the bond, and such recovery shall not be held to extinguish any remedy under other law.

(b) The bond or bonds which the licensee is required to file hereunder shall be renewed and refiled annually at the time of making payment of the annual license fee. If the Mayor shall find that any such bond has for any reason become insecure or exhausted, an additional bond in the sum of not more than \$5,000 shall be filed by the licensee within 10 days after written demand therefor by the Mayor.

(Aug. 6, 1956, 70 Stat. 1037, ch. 970, § 4.)

**Prior Codifications.** — 1981 Ed., § 2-1904. 1973 Ed., § 2-2004.



**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and

Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

### **§ 47-2884.05. License — Issuance; fee; contents; display; transferability; change of place or business.**

(a) If the Mayor approves the bond filed by the applicant and the form of the application, and finds after investigation: (1) that the financial responsibility, experience, character, and general fitness of such applicant, and of the members thereof if the applicant is a firm or voluntary association, and of the officers and directors thereof if the applicant is a joint-stock company, incorporated society, or corporation are such as to command the confidence of the community and to warrant the belief that the business of the applicant will be operated honestly, fairly, and efficiently in accordance with the purposes of this part; (2) that permitting such applicant to engage in such business will promote the convenience and advantage of the community; and (3) that the applicant has available for use in such business at the location specified in the application cash capital of at least \$20,000, the Mayor shall, upon payment by the applicant of a license fee of \$800, issue to the applicant a license to make such loans in accordance with the provisions of this part at the location specified in such application; except that if any such license is issued after the 30th day of April of any year the fee for such license shall be \$250. If the Mayor does not so find after investigation he shall notify the applicant thereof and return the bond filed with the application. Within 60 days from the date of filing the application for license, accompanied by the investigation fee and bond required by this part, the Mayor shall either issue or refuse to issue such license, but no applicant shall be denied a license until after a due hearing by the Mayor, at which the applicant shall have a reasonable opportunity to be heard and to produce evidence in support of his application. If the application be denied, the Mayor shall within 20 days thereafter prepare a written decision and findings with respect thereto containing a summary of the evidence and the reasons supporting the denial and forthwith serve upon the applicant a copy thereof.

(b) Each license issued under this part shall state fully the name of the licensee and the place at which the business is to be conducted under such license. Such license shall be kept conspicuously posted in such place of business. No such license shall be transferable or assignable. Not more than 1 place of business shall be maintained under the same license, but the Mayor may issue more than 1 license to the same licensee upon compliance for each such license with all the provisions of this part applicable to the original

issuance of licenses. Whenever a licensee shall desire to change his place of business to another location within the District he shall file an application for a new license in accordance with the provisions of § 47-2884.03.

(c) No licensee shall transact such business or make any loan provided for by this part under any other name or at any other place of business than that named in the license.

(Aug. 6, 1956, 70 Stat. 1037, ch. 970, § 5; Sept. 14, 1976, D.C. Law 1-82, title I, § 101(a), 23 DCR 2461; Mar. 12, 2011, D.C. Law 18-315, § 4(b), 57 DCR 12412.)

**Prior Codifications.** — 1981 Ed., § 2-1905. 1973 Ed., § 2-2005.

**Effect of amendments.** — D.C. Law 18-315, in subsec. (b), substituted “file an application for a new license in accordance with the provisions of § 47-2884.03” for “immediately give written notice thereof to the Mayor. Upon receipt of such notice the Mayor shall attach to the license a statement of the change of location and the date thereof, which shall be authority for the operation of such business under such license at the new location”.

**Temporary Amendment of Section.** — Section 2(a) of D.C. Law 18-200 added subsec. (a-1) to read as follows:

“(a-1)(1) A license shall not be issued to an applicant unless:

“(A) At least 30 days prior to the issuance of a license, all Advisory Neighborhood Commissions in the ward where the pawnbroker will be located shall be provided notice that a pawnbroker license application has been submitted to the Mayor; and

“(B) All affected Advisory Neighborhood Commissions have been accorded great weight during deliberations to approve or deny the license application.

“(2) This subsection shall not apply to applications for licensure renewal submitted by any pawnbroker licensed in accordance with this part as of April 1, 2010.”.

Section 4(b) of D.C. Law 18-200 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(a) of Predatory Pawnbroker Regulation and Com-

munity Notification Emergency Act of 2010 (D.C. Act 18-385, April 29, 2010, 57 DCR 3838).

**Legislative history of Law 1-82.** — Law 1-82, the “License Fees and Charges Act of 1976,” was introduced in Council and assigned Bill No. 1-237, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 23, 1976, and April 6, 1976, respectively. Signed by the Mayor on June 22, 1976, it was assigned Act No. 1-135 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 18-315.** — For history of Law 18-315, see notes under § 47-2884.03.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the Functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 47-2884.06. License — Revocation; suspension; renewal; renewal fee; procedure; surrender.

(a) Each license shall remain in full force and effect until the 1st day of November following the date of issuance unless sooner surrendered by the licensee or suspended or revoked as hereinafter provided. Application for license for the following year may be made by any licensee within 20 days prior to the 1st day of November. If the Mayor is satisfied that no fact or condition



then exists which clearly would warrant the Mayor in refusing to issue a license on an original application the Mayor is authorized to issue license for the year commencing on the 1st day of November following the date of such application, upon payment of license fee of \$550.

(b) The Mayor shall, upon 10 days notice to the licensee stating that he contemplates the revocation or suspension of his license, and, in general, the grounds therefor, revoke or suspend such license, after reasonable opportunity has been afforded to the licensee to be heard, if the Mayor finds: (1) that the licensee has failed to maintain in effect the bond or bonds required under this part; or (2) that the licensee has either, knowingly or without the exercise of due care to prevent the same, violated any provision of this part or has failed to comply with any rule or regulation lawfully made pursuant thereto; or (3) that any fact or condition then exists which clearly would warrant the Mayor in refusing to issue a license on an original application. If the license be revoked or suspended the Mayor shall, within 20 days thereafter, prepare a written decision and findings with respect thereto containing a summary of the evidence and the reasons supporting the revocation or suspension and forthwith serve upon the licensee a copy thereof.

(c) The Mayor may revoke or suspend only the particular license with respect to which there are grounds for revocation or suspension, but if the Mayor finds that such grounds for revocation or suspension apply or extend to more than 1 license issued to any person under this part, he shall revoke or suspend all the licenses affected thereby.

(d) The licensee may at any time surrender any license issued to him under this part upon filing written notice to that effect with the Mayor.

(e) No revocation, suspension, or surrender of any such license shall impair or affect the obligation of any preexisting lawful contract between the licensee and any borrower, or any bond given by such licensee.

(Aug. 6, 1956, 70 Stat. 1038, ch. 970, § 6; Sept. 14, 1976, D.C. Law 1-82, title I, § 101(b), 23 DCR 2461.)

**Cross references.** — Judicial review, see § 11-722.

**Prior Codifications.** — 1981 Ed., § 2-1906. 1973 Ed., § 2-2006.

**Legislative history of Law 1-82.** — For legislative history of D.C. Law 1-82, see Historical and Statutory Notes following § 47-2884.05.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorga-

nization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

**§ 47-2884.07. License — Enforcement of part; annual report; records of licensee; appeal of action, decision, or ruling of Mayor.**

(a) The provisions of this part shall be enforced by the Mayor, and the Council of the District of Columbia is authorized to make such rules and regulations in addition hereto and not inconsistent herewith, as may be necessary for the enforcement of this part. The Mayor shall make such examination and investigations of the affairs, business, office, and records of every licensee, and such further examinations or investigations as he shall deem necessary for the purpose of discovering violations of this part or of securing information necessary for its proper enforcement. For the purpose of making such examinations or investigations, the Mayor and his duly designated representatives shall have authority to require by subpoena the production of books, papers, and records and the attendance, and examination under oath, of all persons whomsoever whose testimony they may require relative to the loans or business of any such licensee, and shall have free access to the accounts, papers, records, files, safes, vaults, offices, and places of business used in connection with any business conducted under any license issued in accordance with this part. In the event of contumacy or refusal to obey any such subpoena or requirement under this section, the Mayor may make application to the Superior Court of the District of Columbia for an order requiring obedience thereto. Thereupon the Court, with or without notice and hearing, as it in its discretion may decide, may make such order as is proper and may punish as a contempt any failure to comply with such order.

(b) Each licensee shall annually, on or before the 15th day of March, file with the Mayor a report giving such information as the Mayor may require, relevant to the business and operations during the preceding calendar year of each licensed place of business conducted by such licensee in the District. Such report shall be made under oath and in the form prescribed by the Mayor. The Mayor shall make and publish annually an analysis and recapitulation of such reports.

(c) Each licensee shall keep and use in his business and shall preserve, for at least 3 years after making the final entry on any loan recorded therein, such books, accounts, records, or card systems as will enable the Mayor to determine whether such licensee is complying with the provisions of this part and with the rules and regulations made pursuant thereto.

(d) The Mayor is authorized to appoint such assistants, clerks, or other employees as may be required for the purpose of carrying out the provisions of this part.

(e) Any person aggrieved by any action, decision, or ruling of the Mayor under this part may, within 20 days thereafter, or within 20 days after the service upon such person of any written decision and findings required by this part, appeal to the Mayor for a review thereof. Upon any such review, the Mayor may affirm, set aside, or modify such action, decision, or ruling. In any such case the Mayor shall, within 10 days thereafter, prepare a written decision and findings with respect thereto, containing a summary of the



evidence and the reasons supporting the affirmance, setting aside, or modification, and forthwith serve upon the aggrieved person a copy thereof.

(Aug. 6, 1956, 70 Stat. 1039, ch. 970, § 7; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a), 164(m).)

**Prior Codifications.** — 1981 Ed., § 2-1907. 1973 Ed., § 2-2007.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(71) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commis-

sioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 47-2884.08. Advertising; statement of rates.

(a) No licensee or other person, firm, voluntary association, joint-stock company, incorporated society, or corporation shall advertise, print, display, publish, distribute, or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner whatsoever, any statement or representation with regard to the rates, terms, or conditions for the lending of money, credit, goods, or things in action in the amount or of the value of \$1,000 or less, which is false, misleading, or deceptive, or, in the case of a licensee, which refers to the supervision of such business by the District of Columbia, or any department or official thereof. The Mayor may order any licensee to desist from any conduct which he shall find to be a violation of the foregoing provisions.

(b) The Mayor may require that rates of charge, if stated by a licensee, be stated fully and clearly in such manner as he may deem necessary to prevent misunderstanding thereof by prospective borrowers.

(Aug. 6, 1956, 70 Stat. 1040, ch. 970, § 8.)

**Prior Codifications.** — 1981 Ed., § 2-1908. 1973 Ed., § 2-2008.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner.

The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

**§ 47-2884.09. Maximum rate of interest permitted; repayment of loan.**

(a) Beginning January 1, 2011, the maximum rate of interest which a pawnbroker may contract for, and receive, including fees, shall not exceed 5% per month, or fraction of the month, for the first 6 months of a loan, and 3% per month, or fraction of the month, thereafter; provided that, a pawnbroker may contract for, and receive, a minimum charge of \$2 per month, or fraction of the month, in lieu of interest.

(b) The borrower may pay all or any part of any loan made pursuant to this part at any time before the date of maturity thereof, but any such payment may first be applied by the licensee to all interest unpaid up to the date of such payment.

(c) Once during each calendar year, a borrower shall have the right to rescind any pawn loan by the end of the same business day of the transaction. A \$2 fee may be assessed by the licensee to offset the administrative cost of the rescission.

(d) The Mayor shall, no more frequently than once every 3 years, investigate from time to time the economic conditions and other factors relating to and affecting the business of making pawnbroker loans under this part and shall ascertain and report to the Council all pertinent facts necessary to determine what maximum rate of interest should be permitted.

(Aug. 6, 1956, 70 Stat. 1040, ch. 970, § 9; Mar. 12, 2011, D.C. Law 18-315, § 4(c), 57 DCR 12412.)

**Prior Codifications.** — 1981 Ed., § 2-1909. 1973 Ed., § 2-2009.

**Effect of amendments.** — D.C. Law 18-315 rewrote subsec. (a); and added subsecs. (c) and (d).

**Temporary Amendment of Section.** — Section 2(b) of D.C. Law 18-200 amended subsec. (a) to read as follows:

“(a)(1) The maximum rate of interest which a pawnbroker may contract for, and receive, including fees, shall not exceed 24% per annum; provided, that this subsection shall not apply to any pawnbroker licensed in accordance with this part as of April 1, 2010.

“(2) The maximum rate of interest which a pawnbroker licensed in accordance with this part as of April 1, 2010 may contract for and receive shall be the same as permitted by section 8 of Article 41 of the Police Regulations, effective August 22, 1957 (C.O. 57-1638; 16 DCMR § 910).”

Section 4(b) of D.C. Law 18-200 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(b) of Predatory Pawnbroker Regulation and Community Notification Emergency Act of 2010 (D.C. Act 18-385, April 29, 2010, 57 DCR 3838).

**Legislative history of Law 18-315.** — For history of Law 18-315, see notes under § 47-2884.03.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(72) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.



**§ 47-2884.10. Excessive consideration prohibited; instruments for loans made in violation of part invalid; loans made outside of District.**

(a) No person, except as authorized by this part, shall directly or indirectly, by any device, subterfuge, or pretense, whatsoever, ask, demand, charge, contract for, or receive, or participate, as agent, broker, procurer, intermediary, or volunteer, or in any other capacity, in asking, demanding, charging, contracting for, or receiving any interest, discount, fee, charge, or other consideration which in the aggregate is greater than the interest which is permitted by §§ 28-3301 to 28-3303, upon any loan or application for loan in the amount or of the value of \$1,000, or less, whether or not such loan is made.

(b) No person engaged in the business regulated by this part shall pay, directly or indirectly, to any person, any money, service, or thing of value for the doing of any of the acts prohibited in subsection (a) of this section; provided, that this subsection shall apply only to acts done or performed with reference to loan transactions or applications for loans in sums of \$1,000 or less, or in inducing or seeking to induce any person to borrow in sums of \$1,000 or less.

(c) No instrument evidencing a loan made within the District in violation of the provisions of this part shall be valid or enforceable in the District by the lender or by any other holder thereof who acquired the same with actual knowledge that said loan was made in violation of the provisions of this part or with knowledge of such facts that his action in taking such instrument amounted to bad faith.

(d) Any loan made by any person not licensed under this part for which there has been charged, contracted for, or received a greater rate of interest, discount, or consideration than the interest which is permitted by §§ 28-3301 to 28-3303, and any loan made by a licensee under this part for which there has been charged, contracted for, or received a greater rate of interest, discount, or consideration than licensees are permitted to charge, contract for, or receive under this part is hereby declared to be against the public policy of the District. No such loan made outside the District shall be enforced in the District and every person in anywise participating therein in the District shall be subject to the provisions of this part, except that the provisions of this subsection shall not apply to a loan legally made in any state under and in accordance with the provisions of a duly enacted pawnbroker law.

(Aug. 6, 1956, 70 Stat. 1041, ch. 970, § 10.)

**Prior Codifications.** — 1981 Ed., § 2-1910. 1973 Ed., § 2-2010.

**Editor's notes.** — Police regulations amended: Section 3 of D.C. Law 5-137 amended § 2 of Commissioners' Order No. 57-1638 (Article 41 of the Police Regulations of the District

of Columbia) concerning pawnbrokers' maximum rates of interest, monthly charges instead of interest, and computation of interest and of the 6-month period after which a pledge may be sold.

**§ 47-2884.11. Book containing loan transactions required; inspection of books; police to be admitted to premises; daily transcript.**

(a) Every pawnbroker shall keep a book in which shall be fairly written, at the time of each loan, an accurate account and description of the goods, article, or thing pawned or pledged, the amount of money loaned thereon, the time of pledging the same, the rate of interest to be paid on such loan, and the name and residence of the person pawning or pledging the said goods, article, or thing, together with a particular description of such person, including complexion, color of eyes and hair, and his or her height and general appearances.

(b) The said book shall at all reasonable times be open to the inspection of the Mayor. It shall be the duty of every pawnbroker, and of every person in his employ, to admit to his premises during business hours any member of the Metropolitan Police force of the District of Columbia as aforesaid to examine any pledge or pawnbook or other record on the premises, as well as the articles pledged, purchased, or received, and to search for and take possession of any article known by him to be missing or known or believed by him to have been stolen, without the formality of the writ of search warrant or any other process, which search or seizure is hereby authorized.

(c) Except as to any judicial or other official of the District, having a right thereto in his official capacity, it shall be unlawful for any officer or employee of the District to divulge or make known in any manner the contents of such book.

(d) Every pawnbroker shall, every day, except Sunday, before the hour of 11:00 a.m., deliver to the Chief of Police, or his representative, on forms or via electronic means in a format prescribed by the Mayor, a legible and correct transcript from the book or books provided for in subsection (a) of this section, showing an accurate and complete description of every article or thing received by him, in pawn or pledge, and giving all numbers, marks, monograms, trademarks, manufacturers' names, and other marks of identification appearing on the same, on the business day next preceding, together with the numbers of the pawn ticket issued therefor, the amount of the loan thereon, and the name, residence, and physical description of the person pawning or pledging the said goods, article or thing.

(Aug. 6, 1956, 70 Stat. 1041, ch. 970, § 11; Mar. 12, 2011, D.C. Law 18-315, § 4(d), 57 DCR 12412.)

**Prior Codifications.** — 1981 Ed., § 2-1911. 1973 Ed., § 2-2011.

**Effect of amendments.** — D.C. Law 18-315, in subsec. (d), substituted "on forms or via electronic means in a format prescribed by the Mayor" for "on forms to be prescribed by the Mayor of the District of Columbia".

**Legislative history of Law 18-315.** — For history of Law 18-315, see notes under § 47-2884.03.

**Change in Government.** — This section originated at a time when local government

powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished



the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia,

respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## **§ 47-2884.12. Borrower to receive memorandum of loan transaction.**

Every pawnbroker shall, at the time of each loan, deliver to the person pawning or pledging any goods, article, or thing a memorandum or note, signed by him, containing the substance of the entry required to be made in his or her book by § 47-2884.11, excepting as to the description of the person and no charge shall be made or received by any pawnbroker for any such entry, memorandum, or note.

(Aug. 6, 1956, 70 Stat. 1042, ch. 970, § 12.)

**Prior Codifications.** — 1981 Ed., § 2-1912. 1973 Ed., § 2-2012.

## **§ 47-2884.13. Sale of pawn or pledge — Required time of possession.**

No pawnbroker shall sell a pawn or a pledge until the pawn or the pledge has remained 6 months in the pawnbroker's possession, unless by consent in writing by the pawner.

(Aug. 6, 1956, 70 Stat. 1042, ch. 970, § 13; Mar. 13, 1985, D.C. Law 5-137, § 2(a), 31 DCR 5743.)

**Prior Codifications.** — 1981 Ed., § 2-1913. 1973 Ed., § 2-2013.

**Legislative history of Law 5-137.** — Law 5-137, the "Pawnbroker Industry Improvement Act of 1984," was introduced in Council and assigned Bill No. 5-362, which was referred to the Committee on the Judiciary. The Bill was

adopted on first and second readings on September 12, 1984, and October 9, 1984, respectively. Signed by the Mayor on October 25, 1984, it was assigned Act No. 5-195 and transmitted to both Houses of Congress for its review.

## **§ 47-2884.14. Sale of pawn or pledge — Notice.**

At least 30 days before selling a pawn or a pledge, the pawnbroker shall send notice of the sale to the pawner by certified mail. Certificates of mailing of the notice shall be part of the pawnbroker business records required by this part to be kept.

(Aug. 6, 1956, 70 Stat. 1042, ch. 970, § 14; Mar. 13, 1985, D.C. Law 5-137, § 2(b), 31 DCR 5743.)

**Prior Codifications.** — 1981 Ed., § 2-1914. 1973 Ed., § 2-2014.

**Legislative history of Law 5-137.** — For

legislative history of D.C. Law 5-137, see Historical and Statutory Notes following § 47-2884.13.

**§ 47-2884.15. Sale of pawn or pledge — Disposition of surplus moneys.**

The surplus money from the sale, after deducting the amount of the loan, the interest then due on the loan, and the expenses of the notice and sale, shall be paid over by the pawnbroker to the person who would have been entitled to redeem the pledge had the sale not taken place.

(Aug. 6, 1956, 70 Stat. 1042, ch. 970, § 15; Mar. 13, 1985, D.C. Law 5-137, § 2(c), 31 DCR 5743.)

**Prior Codifications.** — 1981 Ed., § 2-1915.  
1973 Ed., § 2-2015.

**Legislative history of Law 5-137.** — For legislative history of D.C. Law 5-137, see Historical and Statutory Notes following § 47-2884.13.

**§ 47-2884.16. Penalties for violation of part; loan declared void; pledge returned.**

(a) Any individual or any member, officer, director, agent, or employee of any firm, voluntary association, joint-stock company, incorporated society, or corporation who shall violate or participate in the violation of any of the provisions of this part shall be punished by a fine of not more than \$300 or by imprisonment for not more than 90 days.

(b) Any contract of loan in the making or collection of which any act shall have been done which constitutes a violation of any of the provisions of this part shall be void and the lender shall have no right to collect or receive any principal, interest, or charges whatsoever on account thereof. Any person pledging any goods, article, or other thing as security for a loan which is void shall be entitled to the return of such goods, article, or thing without being required to pay any principal, interest, or other charge on account of such void loan.

(c) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this part, or any rules or regulations issued under the authority of this part, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this part shall be pursuant to Chapter 18 of Title 2.

(Aug. 6, 1956, 70 Stat. 1042, ch. 970, § 16; Oct. 5, 1985, D.C. Law 6-42, § 439, 32 DCR 4450.)

**Prior Codifications.** — 1981 Ed., § 2-1916.  
1973 Ed., § 2-2016.

**Legislative history of Law 6-42.** — Law 6-42, the “Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985,” was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on

Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

**§ 47-2884.17. Rules and regulations.**

The Mayor, pursuant to Chapter 2 of Title 5, may issue rules to implement the provisions of this act [part].



(Aug. 6, 1956, 70 Stat. 1043, ch. 970, § 17; Mar. 12, 2011, D.C. Law 18-315, § 4(e), 57 DCR 12412.)

**Prior Codifications.** — 1981 Ed., § 2-1917. 1973 Ed., § 2-2017.

**Effect of amendments.** — D.C. Law 18-315 rewrote the section, which formerly read:

“The Council of the District of Columbia is authorized to make, and the Mayor of the District of Columbia is authorized to enforce, such rules and regulations as the Council deems necessary to carry out the purposes of this part.”

**Legislative history of Law 18-315.** — For history of Law 18-315, see notes under § 47-2884.03.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmen-

tal Organization in Volume 1). Section 402(73) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 47-2884.18. Exceptions to application of part.

Nothing in this part shall apply to any person, firm, joint-stock company, incorporated society, credit union, or corporation doing business in the District of Columbia under the supervision of the Federal Reserve System, or the Comptroller of the Currency, or the Federal Deposit Insurance Corporation, or the Federal Home Loan Bank Board, or the Federal Savings and Loan Insurance Corporation, or the Department of Health and Human Services or to loans made by them.

(Aug. 6, 1956, 70 Stat. 1043, ch. 970, § 18.)

**Prior Codifications.** — 1981 Ed., § 2-1918. 1973 Ed., § 2-2018.

**References in text.** — The Federal Home Loan Bank Board, referred to in this section, was substituted for the Home Loan Bank Board pursuant to the Act of August 11, 1955, 69 Stat. 340, ch. 783, § 109.

The Federal Home Loan Bank Board and the Federal Savings and Loan Insurance Corporation referred to in this section have been abolished. For provisions relating to the abolition of the Federal Savings and Loan Insurance Cor-

poration and the Federal Home Loan Bank Board and the transfer of functions, personnel and property of such agencies, see § 401 to 406 of Pub. L. 101-73, set out as notes under 12 U.S.C. § 1437.

The Department of Health and Human Services, referred to near the end of this section, was substituted for the Department of Health, Education and Welfare pursuant to the Act of October 17, 1979, 93 Stat. 695, Pub. L. 96-88, § 509.

## § 47-2884.19. Severability.

If any provision of this part or the application thereof to any person or circumstances is held invalid, the remainder of the part, and the application of such provision to other persons or circumstances shall not be affected thereby.

(Aug. 16, 1956, 70 Stat. 1043, ch. 970, § 20.)

**Prior Codifications.** — 1981 Ed., § 2-1919. 1973 Ed., § 2-2019.

PART C.

PHARMACY.

§ 47-2885.01. Purposes; scope.

- (a) The purposes of this part are:
- (1) To license pharmacies and pharmacists;
  - (2) To register pharmacy interns;
  - (3) To regulate the practice of pharmacy; and
  - (4) To establish a Board of Pharmacy in the District of Columbia in order to protect the public health and welfare.
- (b) This part shall not apply to:
- (1) A duly licensed medical practitioner who personally dispenses or administers drugs or poisons as the practitioner deems proper in the treatment of the practitioner's patients;
  - (2) The administering of drugs by a registered or licensed nurse under the direction of a medical practitioner to the practitioner's patient or patients;
  - (3) Or otherwise interfere with the sale of over-the-counter drugs; or
  - (4) Any person who is a wholesaler or manufacturer, or any employee of such person, when engaged in the discharge of his or her official duties.
- (c) Nothing in this part shall be construed as altering or affecting in any way laws of the District of Columbia or any federal act requiring a written prescription for controlled substances or other dangerous drugs.
- (Sept. 16, 1980, D.C. Law 3-98, § 2, 27 DCR 3528.)

**Prior Codifications.** — 1981 Ed., § 2-2001.

**Legislative history of Law 3-98.** — Law 3-98, the "District of Columbia Certificate of Need Act of 1980," was introduced in Council and assigned Bill No. 3-129, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on June 17, 1980, and July 1, 1980, respectively. Signed by the Mayor on July 16, 1980, it was assigned Act No. 3-220 and

transmitted to both Houses of Congress for its review.

**Delegation of Authority.** — Delegation of authority under D.C. Law 3-98, the "D.C. Pharmacist and Pharmacy Regulation Act of 1980", see Mayor's Order 91-47, April 8, 1991.

Delegation of authority pursuant to D.C. Law 3-98, the "District of Columbia Pharmacist and Pharmacy Regulation Act of 1980", see Mayor's Order 98-48, April 15, 1998 (45 DCR 2693).

§ 47-2885.02. Definitions.

- For purposes of this part:
- (1) The term "Board" means the District of Columbia Board of Pharmacy established by the District of Columbia Health Occupations Revision Act of 1985.
  - (2) The term "dispense" means to sell, distribute, leave with, give away, dispose of, prepare or deliver a drug.
  - (3) The term "drug" means:
    - (A) Any substance recognized as a drug, medicine, or medicinal chemical in the official United States Pharmacopoeia, official National Formulary,



official Homeopathic Pharmacopoeia, or official Veterinary Medicine Compendium or other official drug compendium or any supplement to any of them;

(B) Any substance intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animal;

(C) Any chemical substance (other than food) intended to affect the structure or any function of the body of man or other animal; and

(D) Any substance intended for use as a component of any items specified in subparagraph (A), (B), or (C) of this paragraph, but does not include medical devices or their components, parts, or accessories.

(4) The term “labeling” means the process of affixing a label to any drug container, but does not include the labeling by a manufacturer, packer, or distributor of an over-the-counter drug, packaged legend drug, or medical device.

(5) The term “Mayor” means the Mayor of the District of Columbia or the Mayor’s designated agent.

(6) The term “medical device” means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article, including any component, part, or accessory, which is:

(A) Recognized in the official National Formulary, the official United States Pharmacopoeia, or any supplement thereto;

(B) Intended for use in the diagnosis of disease or any other condition, or in the cure, mitigation, treatment, or prevention of disease in man or other animal; or

(C) Intended to affect the structure or any function of the body of man or other animal, and which does not achieve any of its principal intended purposes through chemical action within or on the body of man or other animal, and which does not depend upon being metabolized for the achievement of any of its principal intended purposes.

(7) The term “medicinal chemicals” means chemicals used in the treatment of illness or disease.

(8) The term “over-the-counter drug” means drugs which may be sold without a prescription and which are prepackaged for use by the consumer and labeled in accordance with the requirements of the laws and regulations of the District of Columbia and the federal government.

(9) The term “person” means any individual, partnership, association, corporation, company, joint stock association, or any organized group of persons whether incorporated or not, or any trustee, receiver, or assignee thereof.

(10) The term “pharmacist” means any person who is licensed in the District of Columbia to engage in the practice of pharmacy.

(11) Repealed.

(12) The term “pharmacy intern” means any person who is registered in the District of Columbia to engage in the practice of pharmacy under the direct supervision of a pharmacist.

(13) The term “practice of pharmacy” means the practice defined in § 3-1201.02(11).

(14) The term “practitioner” means a person licensed and permitted by such license (other than a pharmacist) to prescribe, to dispense, or to conduct

research with respect to, or to administer, drugs within the course of such person's professional practice or research.

(15) Repealed.

(16) The term "proprietor of a pharmacy" means a person designated as proprietor in an application for a pharmacy license under § 47-2885.08. The proprietor may be an individual, a corporation, a partnership, or an unincorporated association, and shall at all times own a controlling interest in the pharmacy.

(17) The term "radiopharmaceuticals" means radioactive drugs and chemicals within the classification of legend drugs as defined under the Federal Food, Drug, and Cosmetic Act (21 U.S.C. § 301 et seq.) or regulations issued by the Mayor pursuant to this part.

(Sept. 16, 1980, D.C. Law 3-98, § 3, 27 DCR 3528; Mar. 25, 1986, D.C. Law 6-99, § 1102(a), 33 DCR 729.)

**Prior Codifications.** — 1981 Ed., § 2-2002.

**Legislative history of Law 3-98.** — For legislative history of D.C. Law 3-98, see Historical and Statutory Notes following § 47-2885.01.

**Legislative history of Law 6-99.** — Law 6-99, the "District of Columbia Certificate of Need Act of 1980," was introduced in Council and assigned Bill No. 6-317, which was referred to the Committee on Consumer and Regulatory

Affairs. The Bill was adopted on first and second readings on December 17, 1985, and January 14, 1986, respectively. Signed by the Mayor on January 28, 1986, it was assigned Act No. 6-127 and transmitted to both Houses of Congress for its review.

**References in text.** — The "District of Columbia Health Occupations Revision Act of 1985," referred to in paragraph (1), is D.C. Law 6-99.

## § 47-2885.03. General prohibitions.

(a)-(c) Repealed.

(d) It shall be unlawful for any person to operate, maintain, open or establish a pharmacy within the District of Columbia without first having obtained a license or registration from the Mayor.

(e) Repealed.

(f) It shall be unlawful for any establishment or institution, or any part thereof, that does not provide services of the practice of pharmacy, as defined within this part, to use or have upon it, or displayed within it, or affixed to or used in connection with it, a sign bearing the word or words "pharmacy," "apothecary," "drugstore," "druggist," or any word or words of similar or like import which would tend to indicate that the practice of pharmacy is being conducted in the establishment or institution.

(Sept. 16, 1980, D.C. Law 3-98, § 4, 27 DCR 3528; Mar. 25, 1986, D.C. Law 6-99, § 1102(b), 33 DCR 729.)

**Prior Codifications.** — 1981 Ed., § 2-2003.

**Legislative history of Law 3-98.** — For legislative history of D.C. Law 3-98, see Historical and Statutory Notes following § 47-2885.01.

**Legislative history of Law 6-99.** — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 47-2885.02.



## §§ 47-2885.04, 47-2885.05. Board of Pharmacy; licensing of pharmacists. [Repealed].

Repealed.

(Mar. 25, 1986, D.C. Law 6-99, § 1102(c), 33 DCR 729.)

**Prior Codifications.** — 1981 Ed., §§ 2-2004, 2-2005. legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 47-2885.02.

**Legislative history of Law 6-99.** — For

## § 47-2885.06. Registration of pharmacy interns.

(a) To register as a pharmacy intern, a person shall establish to the satisfaction of the Board of Pharmacy that the applicant:

(1) Is currently registered in and attending a duly accredited college or school of pharmacy or is a graduate of such college or school of pharmacy; and

(2) Has provided such additional evidence as the Board has determined is necessary for the position of pharmacy intern; and

(3) Has complied with the other standards required for registration by the Non-Health Related Professions and Occupations Licensure Act of 1998.

(b) The Mayor may, by regulation, provide for the registration of pharmacy interns who obtain their practical experience outside of the District of Columbia.

(c) Registration as a pharmacy intern may be renewed for successive periods of 1 year if the Mayor is satisfied that the applicant is in good faith and with reasonable diligence working toward his or her pharmaceutical degree or, if he or she has already received his or her degree, has been unable with reasonable diligence to accumulate the number of hours of service required by the Mayor.

(Sept. 16, 1980, D.C. Law 3-98, § 7, 27 DCR 3528; Apr. 20, 1999, D.C. Law 12-261, § 1244, 46 DCR 3142; Apr. 12, 2000, D.C. Law 13-91, § 157(c), 47 DCR 520.)

**Prior Codifications.** — 1981 Ed., § 2-2006.

**Effect of amendments.** — D.C. Law 13-91 validated a previously made technical amendment.

**Legislative history of Law 3-98.** — For legislative history of D.C. Law 3-98, see Historical and Statutory Notes following § 47-2885.01.

**Legislative history of Law 12-261.** — Law 12-261, the “Second Omnibus Regulatory Reform Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-845, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No.

12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

**Legislative history of Law 13-91.** — Law 13-91, the “Technical Amendments Act of 1999,” was introduced in Council and assigned Bill No. 13-435, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 2, 1999, and December 7, 1999, respectively. Signed by the Mayor on December 29, 1999, it was assigned Act No. 13-234 and transmitted to both Houses of Congress for its review. D.C. Law 13-91 became effective on April 12, 2000.

**References in text.** — “The Non-Health Related Professions and Occupations Licensure Act of 1998,” referenced in (a)(3), is title I of D.C. Law 12-261.

**§ 47-2885.07. Denial, suspension, or revocation of pharmacist's license or pharmacy intern's registration. [Repealed].**

Repealed.

(Mar. 25, 1986, D.C. Law 6-99, § 1102(c), 33 DCR 729.)

**Prior Codifications.** — 1981 Ed., § 2-2007. **Legislative history of Law 6-99.** — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 47-2885.02.

**§ 47-2885.08. Licensing of pharmacies.**

(a) The application for a pharmacy license shall be made on a form to be prescribed by the Mayor and shall be accompanied by the required fee. The license shall be valid for a period of time to be determined by the Mayor. No license fee shall be required for the operation of a pharmacy by the United States government or by the District of Columbia government.

(b) Application for renewal of a pharmacy license shall be made not later than 30 days before the expiration date of the license to avoid lapse. An additional fee for late filing not exceeding the amount of the renewal fee shall be established by the Mayor.

(c) Each pharmacy license issued shall apply only to the operation of the pharmacy at the location for which it is issued.

(d) A pharmacy license is not transferable.

(e) Whether or not the proprietor of a pharmacy is a pharmacist, the pharmacy license shall be issued in the name of the proprietor.

(f) When a pharmacy changes proprietorship, the license shall become void and shall be promptly surrendered to the Mayor, and a license shall be obtained by the new proprietor whether or not there is any change in the name of the pharmacy.

(g) Any license issued pursuant to this section shall be issued as a Public Health: Pharmacy and Pharmaceuticals endorsement to a basic business license under the basic business license system as set forth in subchapter I-A of this chapter.

(Sept. 16, 1980, D.C. Law 3-98, § 9, 27 DCR 3528; Apr. 20, 1999, D.C. Law 12-261, § 2003(d), 46 DCR 3142; Oct. 28, 2003, D.C. Law 15-38, § 3(hh)(4)(Z), 50 DCR 6913.)

**Prior Codifications.** — 1981 Ed., § 2-2008. **Effect of amendments.** — D.C. Law 15-38, in subsec. (g), substituted "Public Health: Pharmacy and Pharmaceuticals endorsement to a basic business license under the basic" for "Class A Public Health: Pharmacy and Pharmaceuticals endorsement to a master business license under the master". (90 day) amendment of section, see § 3(hh)(4)(Z) of Streamlining Regulation Emergency Act of 2003 (D.C. Act 15-145, August 11, 2003, 50 DCR 6896).

**Legislative history of Law 3-98.** — For legislative history of D.C. Law 3-98, see Historical and Statutory Notes following § 47-2885.01.

**Emergency legislation.** — For temporary **Legislative history of Law 12-261.** — For



legislative history of D.C. Law 12-261, see Historical and Statutory Notes following § 47-2885.06.

**Legislative history of Law 12-261.** — For Law 12-261, see note to § 2-2006.

**Legislative history of Law 15-38.** — For Law 15-38, see notes following § 47-2404.

## § 47-2885.09. Operation of pharmacy.

(a) A pharmacy shall be operated only by a licensed pharmacist. During all times when the pharmacy is open for business a pharmacist shall be on duty. The pharmacist on duty shall post his or her license in a conspicuous place during the time he or she is on duty. The hours that the pharmacy is open for business shall be conspicuously displayed on the outside of the pharmacy.

(b) The pharmacist on duty shall control all professional aspects of the practice of pharmacy; any usurpation, in reference or impairment of the exercise of professional judgment of the pharmacist on duty by a nonpharmacist proprietor or personnel shall be deemed the practice of pharmacy and constitute a violation of this part.

(c)(1) If only part of an establishment or institution is used as the pharmacy and if the pharmacy is not open to the public at the times when the rest of the establishment is open to the public, the pharmacy shall be securely enclosed so as to prevent unauthorized access to pharmacy areas and to prevent the diversion of drugs stored in pharmacy areas.

(2) The pharmacy and any storage areas for prescription drugs outside of the pharmacy shall be substantially constructed.

(3) All doors shall be capable of being securely locked, and access shall be restricted to pharmacists, the proprietor of the pharmacy, or persons authorized by a pharmacist with the consent of the proprietor.

(4) The key or keys to areas are to be under the control or in the possession of the pharmacist on duty or the proprietor of the pharmacy.

(d) Burglaries and damage to the pharmacy or its contents by fire, flood, or other causes shall be reported immediately to the Mayor. Neither drugs nor other merchandise shall be dispensed, sold, held for sale, or given away in any pharmacy damaged by fire, flood, or other causes until the Mayor has determined that the merchandise is not adulterated or otherwise unfit for sale, use, or consumption. Damaged premises shall be inspected by the Mayor to determine their continued suitability for pharmacy operations.

(Sept. 16, 1980, D.C. Law 3-98, § 10, 27 DCR 3528.)

**Prior Codifications.** — 1981 Ed., § 2-2009.  
**Legislative history of Law 3-98.** — For legislative history of D.C. Law 3-98, see Histor-

ical and Statutory Notes following § 47-2885.01.

### CASE NOTES

#### In general.

Pharmacy had no common-law duty under District of Columbia law to warn of dangers of drug in filling woman's prescription to combat nausea during pregnancy and could not be held liable for negligent breach of that duty when

woman subsequently gave birth to a severely malformed infant. *Raynor v. Richardson-Merrell, Inc.*, 643 F. Supp. 238, 1986 U.S. Dist. LEXIS 21695 (1986).

Limited liability available under section 402A of the Restatement (Second) of Torts for

marketing a defective, unreasonably dangerous product does not apply to a pharmacy which merely dispenses a prescription drug. *Raynor v.*

*Richardson-Merrell, Inc.*, 643 F. Supp. 238, 1986 U.S. Dist. LEXIS 21695 (1986).

## § 47-2885.10. Denial, suspension, or revocation of pharmacy license.

(a) The Mayor may refuse the issuance or renewal, or may revoke, or may suspend for not more than 90 days, a license issued pursuant to this part for any 1 or a combination of the following reasons:

(1) Conviction of any felony, or a finding by the Mayor that any provision of this part has been violated, or that any law or regulation of the District of Columbia or of the United States relating to drugs has been violated by any person named in the application for pharmacy licensure;

(2) Furnishing false or misleading information to the Mayor, or failing to furnish information requested by the Mayor, or refusing to allow an inspection in accordance with this section and § 47-2885.16; or

(3) Selling, or offering for sale, adulterated or misbranded drugs or devices.

(b) The Mayor shall forthwith suspend a license issued pursuant to this part whenever the Mayor finds that the failure of a pharmacy to comply with any provision of this part or with any District of Columbia or federal law or regulation applicable to such pharmacy is of such a serious nature and magnitude that an imminent danger to the health or safety of the public is presented. In such a case, if a hearing is requested, such request or hearing shall not serve to stay the issuance of an order suspending the license.

(Sept. 16, 1980, D.C. Law 3-98, § 11, 27 DCR 3528; May 16, 1995, D.C. Law 10-255, § 5, 41 DCR 5193.)

**Prior Codifications.** — 1981 Ed., § 2-2010.

**Legislative history of Law 3-98.** — For legislative history of D.C. Law 3-98, see Historical and Statutory Notes following § 47-2885.01.

**Legislative history of Law 10-255.** — Law 10-255, the "Technical Amendments Act of 1994," was introduced in Council and assigned

Bill No. 10-673, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 21, 1994, and July 5, 1994, respectively. Signed by the Mayor on July 25, 1994, it was assigned Act No. 10-302 and transmitted to both Houses of Congress for its review. D.C. Law 10-255 became effective on May 16, 1995.

## § 47-2885.11. Pharmacy personnel.

(a)(1) No personnel working in any capacity, the activities of which include contact with any merchandise or drugs in a pharmacy or the care of dispensing, manufacturing, or storage facilities, who is affected by, or believed by the Mayor, upon reasonable grounds to be affected by, a communicable disease and no person who is or is believed by the Mayor, upon reasonable grounds, to be a carrier of a communicable disease shall actively engage in any work in a pharmacy.

(2) No proprietor of any pharmacy or manager of any pharmacy shall intentionally permit any person who is, or is believed by the Mayor, upon



reasonable grounds, to be, a carrier of a communicable disease to engage or continue to be engaged in any work in the pharmacy.

(b) No person shall work in any capacity in a pharmacy if he or she:

- (1) Has the following conditions: boils, infectious wounds, sores, or an acute respiratory infection;
- (2) Is wearing unclean garments;
- (3) Is a chronic alcoholic as that term is defined in § 24-602; or
- (4) Does not follow hygienic work practices, including the washing of hands thoroughly before commencing work and as often as is necessary thereafter to remove soil and contamination.

(Sept. 16, 1980, D.C. Law 3-98, § 12, 27 DCR 3528; May 10, 1989, D.C. Law 7-231, § 10, 36 DCR 492; Apr. 24, 2007, D.C. Law 16-305, § 73(g), 53 DCR 6198; Mar. 25, 2009, D.C. Law 17-353, § 172(e)(1), 56 DCR 1117.)

**Prior Codifications.** — 1981 Ed., § 2-2011. D.C. Law 16-305, in subsec. (b)(1), substituted “Has the following conditions” for “Is afflicted with”.

**Effect of amendments.** — D.C. Law 17-353, in subsec. (b)(1), inserted a colon following “conditions”.

**Legislative history of Law 3-98.** — For legislative history of D.C. Law 3-98, see Historical and Statutory Notes following § 47-2885.01.

**Legislative history of Law 7-231.** — Law 7-231, the “Technical Amendments Act of 1988,”

was introduced in Council and assigned Bill No. 7-586, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-285 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 16-305.** — For Law 16-305, see notes following § 47-802.

**Legislative history of Law 17-353.** — For Law 17-353, see notes following § 47-308.

## § 47-2885.12. Bulk sales or transfers.

(a)(1) Bulk sales or transfers of drugs or medical devices shall not be made unless the Mayor is notified prior to the proposed transaction and the Mayor finds that the drugs or medical devices are fit for the use for which they were originally intended. For the purposes of this section, the term “bulk sales or transfers” shall mean the sale or transfer of the entire inventory, or any substantial part thereof, in any 1 transaction or in any merchandising effort referred to as an “auction sale,” a “bankruptcy sale,” “distress sale,” or a “closing-out sale”; but the term “bulk sales or transfers” shall not include transfers between stores having common ownership.

(2) A sale of merchandise to a single customer having a value of \$500 or more in any 1-week period shall be considered the sale of a substantial part of the inventory and as 1 transaction unless the sale constitutes the filling of a prescription, or results from a cooperative buying order. If drugs are acquired by such transactions in other jurisdictions, the Mayor shall be notified, and the drugs shall be officially inspected and released by the Mayor prior to sale or other disposition in the District. Bulk quantities of drugs may be transferred only to persons legally entitled to sell or dispense the drugs.

(b) This section supplements and does not replace Chapter 21 of this title.

(Sept. 16, 1980, D.C. Law 3-98, § 13, 27 DCR 3528.)

## § 47-2885.13

TAXATION, LICENSING, PERMITS, ETC.

**Prior Codifications.** — 1981 Ed., § 2-2012. ical and Statutory Notes following § 47-2885.01.  
**Legislative history of Law 3-98.** — For legislative history of D.C. Law 3-98, see Histor-

## § 47-2885.13. Deteriorating drugs; sample drugs; returned drugs.

(a) Drugs which may deteriorate shall at all times be stored under conditions specified on the label of the original container and in accordance with applicable District of Columbia or federal laws or regulations, and shall not be sold or dispensed after the expiration date designated on the label of the original container, and in accordance with applicable District of Columbia or federal laws or regulations.

(b) Drugs designated “sample” shall not be sold.

(c) A drug which has been returned after leaving the pharmacy shall not be placed in stock for reuse or resale, except manufacturer packaged unit dose or unit of use drugs which have been unopened and unaltered.

(Sept. 16, 1980, D.C. Law 3-98, § 14, 27 DCR 3528.)

**Prior Codifications.** — 1981 Ed., § 2-2013. ical and Statutory Notes following § 47-2885.01.  
**Legislative history of Law 3-98.** — For legislative history of D.C. Law 3-98, see Histor-

### CASE NOTES

#### **In general.**

Pharmacist could claim that he was wrongfully discharged, despite his status as at-will employee, based upon his insistence that proper temperatures be maintained in drug storage areas as required by Federal and District of Columbia regulations; conduct allegedly resulting in termination implicated public pol-

icy underlying legal proscriptions on storage and handling of drugs. Federal Food, Drug, and Cosmetic Act, §§ 303(a)(1), 501, 21 U.S.C. §§ 333(a)(1), 351; 21 C.F.R. §§ 210.1(b), 211.142(b); D.C. Code 1981, § 2-2013(a). *Liberatore v. Melville Corp.*, 168 F.3d 1326, 1999 U.S. App. LEXIS 4162 (C.A.D.C. 1999).

## § 47-2885.14. Labeling of prescriptions.

All drugs shall be dispensed in a suitable container appropriately labeled for subsequent administration to or use by an individual entitled to the drug. Any drug dispensed, except to inpatients of a licensed hospital, shall include on the label of the container the name of the drug and the strength of the drug when applicable, unless otherwise directed by the prescribing practitioner, and the name, address and telephone number of the pharmacy filling the prescription, the prescription number, the date of issuance and the name of the prescriber, directions for use, the name of the individual for whom the prescription is written, and other information and labeling which may be required by any District of Columbia or federal laws or regulations.

(Sept. 16, 1980, D.C. Law 3-98, § 15, 27 DCR 3528.)

**Prior Codifications.** — 1981 Ed., § 2-2014. ical and Statutory Notes following § 47-2885.01.  
**Legislative history of Law 3-98.** — For legislative history of D.C. Law 3-98, see Histor-



## § 47-2885.15. Records.

(a) There shall be maintained in every pharmacy, or in the establishment or institution where a pharmacy is located, a suitable book, file, or other easily retrievable record, in which shall be preserved for a period of not less than 2 years every prescription compounded or dispensed at said pharmacy.

(b)(1) There shall be maintained a bound volume recording the information required by law or regulation concerning the over-the-counter sales of those drugs which are listed in schedule V established or amended pursuant to the federal Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. § 801 et seq.).

(2) There shall also be maintained a bound volume in which shall be entered similar information concerning each sale of:

(A) Hypodermic syringes, needles, or other medical devices which may be used in the administration of controlled substances;

(B) Gelatin capsules and glassine envelopes in quantities sufficient to indicate an intention to use such items in the distribution of controlled substances; and

(C) Diluents or adulterants, such as lactose or quinine, in quantities sufficient to indicate an intention to use such substances for the illegal distribution or dispensing of any controlled substance.

(c) The records required to be maintained by this section shall be available for inspection by the Mayor during regular business hours.

(Sept. 16, 1980, D.C. Law 3-98, § 16, 27 DCR 3528.)

**Prior Codifications.** — 1981 Ed., § 2-2015. ical and Statutory Notes following § 47-  
**Legislative history of Law 3-98.** — For 2885.01.  
legislative history of D.C. Law 3-98, see Histor-

## § 47-2885.16. Inspections.

(a) Persons designated by the Mayor shall be permitted, after presenting proper identification, to enter at reasonable times any pharmacy or drug outlet for the purpose of making inspections to determine compliance with this part or with other laws or regulations applicable to the practice of pharmacy. Persons designated by the Mayor shall be pharmacists for the purpose of making inspections to determine compliance with those sections of this part and other applicable laws and regulations regarding the practice of pharmacy as defined within this part.

(b) This inspection may include, but shall not be limited to, the examination of the pharmacy's records, including prescriptions, and the obtaining of information and samples pertaining to drugs on hand or dispensed.

(Sept. 16, 1980, D.C. Law 3-98, § 17, 27 DCR 3528.)

**Prior Codifications.** — 1981 Ed., § 2-2016. ical and Statutory Notes following § 47-  
**Legislative history of Law 3-98.** — For 2885.01.  
legislative history of D.C. Law 3-98, see Histor-

§ 47-2885.17. Peddling drugs prohibited.

It shall be unlawful for any person to sell or offer for sale by peddling, or to offer for sale from house to house, or to offer for sale by public outcry, or by vending in the street, any drug, medicine, chemical, or controlled substance as defined in the District of Columbia Uniform Controlled Substances Act of 1981, or any compound or combination thereof, or any implement, appliance, or other agency for the treatment of disease, injury, or deformity; except, as may be otherwise authorized by law, no person shall throw, cast, deposit, drop, scatter, or leave, or cause to be thrown, cast, deposited, dropped, scattered, or left, any drug, medicine, chemical, or controlled substance as defined in the District of Columbia Uniform Controlled Substances Act of 1981, or any compound or combination thereof, upon any public highway or place, or, without the consent of the owner or occupant thereof, upon any premises in the District of Columbia. An offer for sale by peddling includes remaining or wandering about a public place and:

- (1) Repeatedly beckoning to, repeatedly stopping, repeatedly attempting to stop, or repeatedly attempting to engage passers-by in conversation;
- (2) Repeatedly stopping or attempting to stop motor vehicles; or
- (3) Repeatedly interfering with the free passage of other persons for the purpose of selling any controlled substance proscribed by the District of Columbia Uniform Controlled Substances Act of 1981.

(Sept. 16, 1980, D.C. Law 3-98, § 18, 27 DCR 3528; Dec. 10, 1981, D.C. Law 4-57, § 4, 28 DCR 4642.)

**Prior Codifications.** — 1981 Ed., § 2-2017.

**Legislative history of Law 3-98.** — For legislative history of D.C. Law 3-98, see Historical and Statutory Notes following § 47-2885.01.

**Legislative history of Law 4-57.** — Law 4-57, the “Control of Prostitution and Sale of Controlled Substances in Public Places Criminal Control Act of 1981,” was introduced in Council and assigned Bill No. 4-184, which was referred to the Committee on the Judiciary. The

Bill was adopted on first and second readings on September 15, 1981, and September 29, 1981, respectively. Signed by the Mayor on October 19, 1981, it was assigned Act No. 4-98 and transmitted to both Houses of Congress for its review.

**References in text.** — The “District of Columbia Uniform Controlled Substances Act of 1981,” referred to throughout this section, is D.C. Law 4-29.

§ 47-2885.17a. Public place defined.

For the purposes of § 47-2885.17, the term “public place” means any street, sidewalk, bridge, alley, plaza, park, driveway, parking lot, transportation facility, or the doorways and entrance ways to any building which fronts on any of these locations, or a motor vehicle in or on any such place.

(Dec. 10, 1981, D.C. Law 4-57, § 2(2), 28 DCR 4642.)

**Prior Codifications.** — 1981 Ed., § 2-2017.1.

**Legislative history of Law 4-57.** — For legislative history of D.C. Law 4-57, see Historical and Statutory Notes following § 47-2885.17.

**Editor’s notes.** — The phrase “§ 47-2885.17” was substituted for “this act” near the beginning of this section for clarity. The act referred to was D.C. Law 4-57.



## § 47-2885.18. Duties of Mayor.

(a) The Mayor shall:

(1) Administer and enforce the provisions of this part;

(2) Repealed;

(3) Adopt and publish such regulations as may be necessary for the implementation of this part, including, but not limited to, regulations concerning the following:

(A)-(C) Repealed;

(D) The establishment of various classifications of pharmacies, including, but not limited to, retail, institutional, radio, or nuclear pharmacies;

(E)-(G) Repealed;

(H) Establishment of minimum standards for the operation of pharmacies, including the minimum requirements for technical equipment and professional reference materials;

(I) The safe and proper storage, and maintenance of drugs, and the disposal of drugs;

(J) The requirements to assure that pharmacies shall be clean, in good repair, well ventilated and illuminated, and equipped with the necessary dispensing facilities, and adequate facilities for the purposes of cleansing hands, equipment and utensils, and the premises therein; such facilities may be located in areas adjacent to the pharmacy where only part of an establishment or institution is used as the pharmacy; and

(K) The establishment of regulations covering the storage and dispensing of radiopharmaceuticals.

(b) Repealed.

(Sept. 16, 1980, D.C. Law 3-98, § 19, 27 DCR 3528; Mar. 25, 1986, D.C. Law 6-99, § 1102(d), 33 DCR 729.)

**Prior Codifications.** — 1981 Ed., § 2-2018.

**Legislative history of Law 3-98.** — For legislative history of D.C. Law 3-98, see Historical and Statutory Notes following § 47-2885.01.

**Legislative history of Law 6-99.** — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 47-2885.02.

## § 47-2885.19. Fees.

(a) The initial fees shall be as follows: (1) Repealed; (2) pharmacy license, \$85; (3) every person who sells over-the-counter preparations shall pay an annual license fee of \$52. The fees referred to in this subsection shall be established in such amounts as will, in the judgment of the Mayor, approximate the costs to the District of Columbia government for administering this part. The Mayor is authorized to change the fees from time to time for any services rendered under this part; provided, that, the Mayor gives 30 days notice prior to changing such fees.

(b) The Mayor is authorized after 30 days notice to establish and to change, as may be necessary, the expiration dates of licenses and registrations provided for in this part. Upon the change of an expiration date, the renewal

fee for the licenses, or registrations, shall be prorated on the basis of the time covered.

(Sept. 16, 1980, D.C. Law 3-98, § 20, 27 DCR 3528; Mar. 25, 1986, D.C. Law 6-99, § 1102(e), 33 DCR 729.)

**Prior Codifications.** — 1981 Ed., § 2-2019.

**Legislative history of Law 3-98.** — For legislative history of D.C. Law 3-98, see Historical and Statutory Notes following § 47-2885.01.

**Legislative history of Law 6-99.** — For legislative history of D.C. Law 6-99, see Historical and Statutory Notes following § 47-2885.02.

## § 47-2885.20. Penalties; prosecutions; injunction.

(a) Any person who violates any provision of this part shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$500 or by imprisonment for not more than 6 months or both for each violation.

(b) Prosecutions for violations of any provision of this part shall be conducted in the Superior Court of the District of Columbia, by the Attorney General for the District of Columbia. It shall be sufficient to prove in any prosecution or hearing under this part only a single act prohibited by law or a single holding out, or any attempt thereof, without proving a general course of conduct in order to constitute a violation.

(c) In addition to the remedy set forth in this section, application may be made to a court having competent jurisdiction over the parties and subject matter for a writ of injunction or other civil remedy to restrain violations of the provisions of this part. Such application may be made by the Attorney General for the District of Columbia.

(d) Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this part, or any rules or regulations issued under the authority of this part, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this chapter shall be pursuant to Chapter 18 of Title 2.

(Sept. 16, 1980, D.C. Law 3-98, § 21, 27 DCR 3528; Oct. 5, 1985, D.C. Law 6-42, § 409, 32 DCR 4450; Apr. 13, 2005, D.C. Law 15-354, § 75(a), 52 DCR 2638.)

**Prior Codifications.** — 1981 Ed., § 2-2020.

**Effect of amendments.** — D.C. Law 15-354 substituted "Attorney General for the District of Columbia" for "Corporation Counsel".

**Legislative history of Law 3-98.** — For legislative history of D.C. Law 3-98, see Historical and Statutory Notes following § 47-2885.01.

**Legislative history of Law 6-42.** — Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," was

introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

## § 47-2885.21. Review.

Any person aggrieved by an adverse action of the Mayor may file a request



for a hearing with the Office of Administrative Hearings. The Office of Administrative Hearings shall provide the aggrieved person with an opportunity for a hearing and shall sustain, modify, or vacate such action by the Mayor as is appropriate in the case. Judicial review of the decision of the Office of Administrative Hearings shall be in accordance with [§ 2-1831.16].

(Sept. 16, 1980, D.C. Law 3-98, § 22, 27 DCR 3528; Apr. 13, 2005, D.C. Law 15-354, § 75(b), 52 DCR 2638.)

**Prior Codifications.** — 1981 Ed., § 2-2021.

**Effect of amendments.** — D.C. Law 15-354 rewrote the section which had read as follows: "Any person aggrieved by an adverse action of the Mayor may appeal to the Board of Appeals and Review established by Organization Order No. 112, dated August 15, 1955. The Board of Appeals and Review shall, in accordance with such Organization Order, and its rules of practice and procedure, provide the aggrieved person with an opportunity for a hearing and shall sustain, modify, or vacate such adverse action by the Mayor as is appropriate in the case. The decision of the Board of Appeals and Review shall be the final administrative remedy. Any person who is adversely affected by a decision of the Board of Appeals and Review may seek judicial review thereof in the District of Columbia Court of Appeals, pursuant to Chapter 5 of Title 2."

**Legislative history of Law 3-98.** — For legislative history of D.C. Law 3-98, see Historical and Statutory Notes following § 47-2885.01.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

**Mayor's Orders.** — Amendment of Organization Order No. 112, Commissioners' Order No. 55-1500, establishing Board of Appeals and Review: See Mayor's Order 84-31, February 9, 1984.

**Editor's notes.** — Office of Auditor abolished: The Office of the Auditor of the District of Columbia was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. All functions of the Office of the Auditor, including the functions of all officers, employees, and subordinate agencies were transferred to the Director, Department of General Administration by Reorganization Order No. 3 of the Board of Commissioners, dated August 28, 1952. The functions of auditing all moneys paid to and collected by the District Unemployment Board as provided in subsection (a) of this section was transferred from the Auditor to the Internal Audit Officer, Department of General Administration by Reorganization Order No. 19. The function of the Auditor of the District concerning the prior audit of refunds was transferred

from the Auditor to the Accounting Officer, Finance Office, Department of General Administration by Reorganization Order No. 20, dated November 10, 1952. Reorganization Order No. 20 was superseded by Organization Order No. 121, dated December 12, 1957. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Reorganization Order No. 19 and Organization Order No. 121 were revoked and replaced by Organization Order No. 3, dated December 13, 1967. Parts IVB and IVC of the latter Order established within the newly created Department of General Administration, an Internal Audit Office and a Finance Office and prescribed the functions thereof. These functions were subsequently transferred to the Director of the Department of Finance and Revenue by paragraph 4 of Commissioner's Order No. 69-96, dated March 7, 1969. Part IVB of Organization Order No. 3 and that portion of paragraph 4 of Commissioner's Order No. 69-96 pertaining to a transfer of audit functions to the Department of Finance and Revenue were revoked by Organization Order No. 33, dated July 14, 1972. The latter Order established an Office of Municipal Audit and Inspection and prescribed the functions thereof. The Office of Municipal Audit and Inspection was replaced by Mayor's Order No. 79-7, dated January 2, 1979, which Order established the Office of the Inspector General of the District of Columbia.

Office of Major and Superintendent of Metropolitan Police abolished: The Office of the Major and Superintendent of Metropolitan Police was abolished and all functions of that office transferred to and vested in the Chief of Police. The Assistant Superintendent, Executive Officer of the Metropolitan Police Department was designated "Deputy Chief of Police, Executive Officer"; the Assistant Superintendent of the Metropolitan Police in command of the Detective Bureau was designated "Deputy Chief of Police, Chief of Detectives"; and each other Assistant Superintendent of the Metropolitan Police was designated "Deputy Chief of Police" by Reorganization Order No. 7 dated September 15, 1952. Reorganization Order No. 7 was replaced by Organization Order No. 153, dated November 10, 1966.

§ 47-2885.22. Severability.

If any provision of this part is for any reason held invalid by any court of competent jurisdiction, the provision shall be deemed a separate, distinct, and independent provision, and its invalidity shall not affect the validity of the remaining provisions.

(Sept. 16, 1980, D.C. Law 3-98, § 23, 27 DCR 3528.)

**Prior Codifications.** — 1981 Ed., § 2-2022. ical and Statutory Notes following § 47-  
**Legislative history of Law 3-98.** — For 2885.01.  
 legislative history of D.C. Law 3-98, see Histor-

§ 47-2885.23. Effect of part on prior regulations.

The provisions of this part supplement all other regulations and laws applicable in the District of Columbia. Regulations heretofore in effect in the District of Columbia which are inconsistent with the provisions of this part are hereby superseded with respect to matters covered by this part.

(Sept. 16, 1980, D.C. Law 3-98, § 24(c), 27 DCR 3528.)

**Prior Codifications.** — 1981 Ed., § 2-2023. ical and Statutory Notes following § 47-  
**Legislative history of Law 3-98.** — For 2885.01.  
 legislative history of D.C. Law 3-98, see Histor-

PART D.

PROFESSIONAL ENGINEERS.

§ 47-2886.01. Short title.

This part shall be known and may be cited as the Professional Engineers' Registration Act.

(Sept. 19, 1950, 64 Stat. 854, ch. 953, § 1.)

**Cross references.** — Boards, commissions and committees, application of law, see § 1-321.02.  
**Prior Codifications.** — 1981 Ed., § 2-2301. 1973 Ed., § 2-1801.

§ 47-2886.02. Definitions.

As used in this part:

(1) The term “practice of engineering” shall mean the performance of any professional service or creative work requiring engineering education, training, and experience, and the application of special knowledge of the mathematical, physical, and engineering sciences to such professional services or creative work as consultation, investigation, evaluation, planning, design, and supervision of construction for the purpose of assuring compliance with specifications and design, in connection with the utilization of the forces, energies, and materials of nature in the development, production, and func-



tioning of engineering processes, apparatus, machines, equipment, facilities, structures, works, or utilities, or any combinations or aggregations thereof employed in or devoted to public or private enterprise or uses. The term "practice of engineering" comprehends the practice of those branches of engineering, the pursuit of any of which affects the safety of life, health or property, or the public welfare. Said practice includes the doing of such architectural work as is incidental to the practice of engineering.

(2) The term "professional engineer" shall mean a person who, by reason of his special knowledge of the mathematical and physical sciences and the principles and methods of engineering analysis and design, customarily acquired by a prolonged course of specialized intellectual instruction and study and practical experience, is qualified to engage in the practice of engineering as attested by his certificate of registration as a professional engineer.

(3) The term "engineer-in-training" shall mean a candidate for registration as a professional engineer who has been granted a certificate as an engineer-in-training after successfully passing the 1st stage of the prescribed examination in fundamental engineering subjects, and who, upon completion of the requisite years of training and experience in engineering under the supervision of a professional engineer or similarly qualified engineer and satisfactory to the Board, shall be eligible for the 2nd stage of the prescribed examination for registration as a professional engineer.

(4) The term "responsible charge" shall mean such degree of competence and accountability gained by education, training, and experience in engineering of a grade and character sufficient to qualify an individual to engage personally and independently in and be entrusted with the work involved in the practice of engineering.

(5) The term "institution" shall mean a school, college, university, department of a university, or other educational institution granting baccalaureate degrees in engineering, reputable, and in good standing in accordance with the rules prescribed by the Board.

(6) The term "Board" shall mean the District of Columbia Board of Registration for Professional Engineers.

(7) The term "Mayor" shall mean the Mayor of the District of Columbia.

(Sept. 19, 1950, 64 Stat. 854, ch. 953, § 2.)

**Prior Codifications.** — 1981 Ed., § 2-2302.  
1973 Ed., § 2-1802.

**Editor's notes.** — Board of Registration for Professional Engineers abolished: See note to § 47-2886.05.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of

the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

CASE NOTES

**In general.**

District of Columbia statutory requirements for professional engineers can be met by natural persons only, and a corporation cannot be licensed as professional engineer. D.C. Code 1951, §§ 2-1801 to 2-1818. *Potomac Engineers v. Walser*, 223 F.2d 356, 1955 U.S. App. LEXIS 3971 (C.A.D.C. 1955).

The preparation by duly licensed master electricians of plans, diagrams and computations for proposed installations in which carrying capacity will exceed 200 amperes or electrical potential will exceed 240 volts does not constitute "practice of engineering" as contemplated in the Professional Engineers' Registration Act, and order of Board of Commissioners of District of Columbia providing that plans and specifications for proposed electrical installations in excess of 240 amperes or 240 volts should be

prepared by registered professional electrical engineer was not required under the legislation regulating the practice of engineering. D.C. Code 1951, §§ 1-244 et seq., 2-1001 et seq., 2-1801 et seq.; 18 U.S.C. § 2201. *Electrical Contractors Ass'n of District of Columbia v. McLaughlin*, 153 F.Supp. 653, 1957 U.S. Dist. LEXIS 3274 (D.D.C.1957).

Department of Consumer and Regulatory Affairs could deny application for registration as professional electrical engineer without examination on basis that petitioner was not engineer of "established and recognized standing" due to lack of specific accomplishments, activities, and honors. D.C. Code 1981, §§ 1-1510(a), 2-2302(4), 2-2308(2)(A)(i-v). *Becker v. District of Columbia Dep't of Consumer & Regulatory Affairs*, 518 A.2d 93, 1986 D.C. App. LEXIS 499 (1986).

**§ 47-2886.03. Declaration of policy.**

In order to safeguard life, health, and property, and promote the public welfare, the practice of engineering in the District of Columbia is hereby declared to be subject to regulation in the public interest. It is further declared to be a matter of public interest and concern that the profession of engineering merit and receive the confidence of the public and that only qualified persons be permitted to engage in the practice of engineering. All provisions of this part relating to the practice of engineering shall be construed in accordance with this declaration of policy.

(Sept. 19, 1950, 64 Stat. 855, ch. 953, § 3.)

**Prior Codifications.** — 1981 Ed., § 2-2303. 1973 Ed., § 2-1803.

**§ 47-2886.04. Practice of engineering without registration prohibited.**

Any person engaged in or offering to engage in the practice of engineering in the District of Columbia shall submit evidence that he is qualified to practice and shall be registered as hereinafter provided; and it shall be unlawful for any person to engage or offer to engage in the practice of engineering in the District of Columbia, or by verbal claim, sign, advertisement, letterhead, card, or in any other way, represent himself to be a professional engineer, or through the use of the title including the word "engineer" or words of like import, or any other title, imply that he is a professional engineer, unless such person is registered under the provisions of this part.

(Sept. 19, 1950, 64 Stat. 855, ch. 953, § 4.)

**Prior Codifications.** — 1981 Ed., § 2-2304. 1973 Ed., § 2-1804.



**§ 47-2886.05. District of Columbia Board of Registration for Professional Engineers — Created; duty; composition; appointment; qualifications; term of office; oath of office; removal; vacancies.**

Omitted.

**Cross references.** — Disclosure of financial interests, requirements, see § 1-1106.02.

**Prior Codifications.** — 1981 Ed., § 2-2305.

**Editor's notes.** — The provisions of former § 2-2305 1981 Ed. have been omitted as obsolete, the Board referred to herein having been abolished.

Board of Registration for Professional Engineers abolished. The District of Columbia Board of Registration for Professional Engineers was abolished and the functions thereof transferred to the Board of Commissioners of the District of Columbia by Reorganization Plan No. 5 of 1952. The functions were delegated to the Department of Occupations and Professions by Reorganization Order No. 59, dated June 30, 1953. The executive functions of the Board of Commissioners were transferred to the Commissioner of the District of Columbia by § 401 of Reorganization Plan No. 3 of 1967. Section 402 (64), (65), (66), (67) and (68) of the Plan transferred the regulatory and other func-

tions of the Board of Commissioners, under § 47-2886.08, to the District of Columbia Council to the extent and in the particulars specified in that section, subject to the right of the Commissioner as provided by § 406 of the Plan. The functions delegated the Department of Occupations and Professions were subsequently transferred to the Director of the Department of Economic Development by Commissioner's Order No. 69-96, dated March 7, 1969. The Department of Economic Development was replaced by Mayor's Order 78-42, dated February 17, 1978, which Order established the Department of Licenses, Investigation and Inspection.

The functions of the Department of Licenses, Investigations and Inspections were transferred to the Director of the Department of Consumer and Regulatory Affairs by Reorganization Plan No. 1 of 1983, effective March 31, 1983.

**§ 47-2886.06. District of Columbia Board of Registration for Professional Engineers — Compensation. [Omitted].**

Omitted.

**Prior Codifications.** — 1981 Ed., § 2-2306.

**Editor's notes.** — The provisions of former § 2-2306 1981 Ed. have been omitted as obsolete, the Board referred to herein having been abolished.

Board of Registration for Professional Engineers abolished. See Historical and Statutory Notes following § 47-2886.05.

**§ 47-2886.07. District of Columbia Board of Registration for Professional Engineers — Meetings; officers; quorum. [Omitted].**

Omitted.

**Prior Codifications.** — 1981 Ed., § 2-2307.

**Editor's notes.** — The provisions of former § 2-2307 1981 Ed. have been omitted as obsolete, the Board referred to herein having been abolished.

Board of Registration for Professional Engineers abolished. See Historical and Statutory Notes following § 47-2886.05.

**§ 47-2886.08. District of Columbia Board of Registration for Professional Engineers — Powers.**

The Board shall have power:

(1) To investigate and to approve those institutions that provide and maintain satisfactory standards for the education of students desiring to engage in the practice of engineering;

(2)(A) To register as a professional engineer any person of good character and repute who is a citizen of the United States, at least 18 years of age, and who speaks and writes the English language, if such person:

(i) Holds a license or certificate of registration to engage in the practice of engineering issued to him by proper authority of a state or territory of the United States in which the requirements and qualifications for obtaining such license or certificate of registration are reasonably equivalent in the opinion of the Board to the standards set forth in this part. A person may be registered under this sub-subparagraph without examination;

(ii) Holds a certificate of qualification issued by the National Bureau of Engineering Registration of the National Council of State Boards of Engineering Examiners; provided, however, that the requirements and qualifications of said body for obtaining such certificate are reasonably equivalent, in the opinion of the Board, to the standards set forth in this part. A person may be registered under the provisions of this sub-subparagraph without examination;

(iii) Has had 4 or more years experience in engineering work of a grade or character satisfactory to the Board, and indicating that he is qualified to assume responsible charge of the work involved in the practice of engineering and either holds a certificate as an engineer-in-training issued to him by the Board or by proper authority of a state or territory in which the requirements and qualifications of said bodies for obtaining such certificate are reasonably equivalent, in the opinion of the Board, to the standards set forth in this part, or is a graduate in engineering from an institution having a course in engineering of 4 or more years, and who, in either event, successfully passes a written, or written and oral, examination prescribed by the Board of engineering subjects. In the case of the examination of an engineer-in-training, his examination shall be directed and limited to those matters which will test the applicant's ability to apply the principles of engineering to the actual practice of engineering. In the case of an applicant who is not an engineer-in-training, the examination shall be for the purpose of testing the applicant's knowledge of fundamental engineering subjects, including mathematics and the physical sciences, and those matters which will test the applicant's ability to apply the principles of engineering to the actual practice of engineering;

(iv) Has completed an approved secondary-school course of study or equivalent and has had 12 or more years of combined education and experience in engineering of a grade and character satisfactory to the Board and indicating that he is qualified to assume responsible charge of the work involved in the practice of engineering, and who successfully passes a written, or written and oral, examination prescribed by the Board for the purpose of



testing the applicant's knowledge of fundamental engineering subjects, including mathematics and the physical sciences, and those matters which will test the applicant's ability to apply the principles of engineering to the actual practice of engineering;

(v) Submits evidence that he is an engineer of established and recognized standing in the engineering profession and that he has been lawfully engaged in the practice of engineering for 12 or more years, of which at least 5 years shall have been in responsible charge of important engineering work of a grade and character satisfactory to the Board. A person may be registered under this sub-subparagraph without examination; or

(vi) Submits evidence that he was a resident of the District of Columbia, or that he was engaged in the practice of engineering in the District of Columbia, prior to September 19, 1950, and for 1 year immediately preceding the date of his application, and submits evidence of experience in engineering, of a grade and character satisfactory to the Board, indicating that he is qualified to assume responsible charge of the work involved in the practice of engineering. Registration shall not be granted under the provisions of this sub-subparagraph unless the application therefor is filed with the Board within 1 year after September 19, 1950. A person may be registered under this sub-subparagraph without examination.

(B) The requirement of this paragraph of residence or practice of engineering in the District of Columbia for 1 year immediately preceding the date of application shall not be applied to applicants who were on active duty in the armed forces of the United States during such year, and who entered on such duty after October 16, 1940, but any such applicant for license under this paragraph must have been a resident or engaged in the practice of engineering in the District of Columbia for at least 1 year prior to September 19, 1950;

(3) To provide for and to regulate the certification and to certify as an engineer-in-training any person of good character and repute who is a citizen of the United States, at least 18 years of age or has graduated from an institution, and who speaks and writes the English language, if such person:

(A) Is a graduate in engineering from an institution having a course in engineering of 4 or more years and who successfully passes a written, or written and oral, examination prescribed by the Board for the purpose of testing the applicant's knowledge of fundamental engineering subjects, including mathematics and the physical sciences. A person may be certified as an engineer-in-training under this subparagraph without a written, or written and oral, examination; provided, however, that the application therefor is filed with the Board within 1 year after September 19, 1950; or

(B) Has completed an approved secondary-school course of study or equivalent, and has had 8 or more years of combined education, training, and experience in engineering, of a grade and character satisfactory to the Board, and who successfully passes a written, or written and oral, examination prescribed by the Board for the purpose of testing the applicant's knowledge of fundamental engineering subjects, including mathematics and the physical sciences;

(4) To register as a professional engineer any person who is not a citizen of the United States, who is of good character and repute, at least 25 years of

age, and speaks and writes the English language, if such person submits evidence, of a grade and character satisfactory to the Board, that he is an engineer of established and recognized standing in the profession of engineering in his own country, and who submits certification as to character and qualifications from at least 2 professional engineers of the District of Columbia. Such registration shall entitle the holder to engage in the practice of engineering only for the duration of and in connection with a specific project for which it was granted, and shall be subject to annual renewal and to suspension or revocation as registration granted as otherwise provided in this part. Engineers to whom such temporary registration has been granted shall be separately listed in the roster;

(5) To require all candidates for registration as professional engineers to file with the Secretary-Treasurer of the Board a written application on a prescribed form and accompanied by the required fee. Such application shall contain statements made under oath, showing the applicant's education, detailed summary of his experience in engineering work, and the general field or fields of engineering in which he has his principal activity, and shall contain not less than 5 references, of whom 3 or more shall be engineers having personal knowledge of his engineering training and experience;

(6) To investigate the allegations contained in any application for registration as a professional engineer in order to determine the truth of such allegations, and to determine the competency of any person applying for a registration to assume responsible charge of the work involved in the practice of engineering, such competency to be determined by the grade and character of the engineering work actually performed. Any person having the necessary qualifications prescribed in this part to entitle him to registration or certification shall be eligible therefor, although he may not be practicing his profession at the time of making his application. Evaluation of experience in engineering shall be based upon the applicant's knowledge of the fundamental engineering subjects, which shall be broad in scope and of a nature to develop and mature the applicant's engineering knowledge and judgment. In considering the qualifications of an applicant who has graduated in engineering from an approved institution, each year, but not exceeding 2 years, of successful postgraduate study in engineering, and each scholastic year, in excess of 4, of an approved 5- or 6-year engineering curriculum, and each year of teaching engineering subjects, in an approved institution, may be considered as equivalent to 1 year of experience in engineering. In considering the qualifications of an applicant who is an undergraduate in engineering, or who has graduated in a curriculum other than engineering, from an approved institution, each equivalent year of approved engineering education, as determined by evaluation by the Board of the educational records submitted, may be considered as equivalent to 2 years of combined education and experience in engineering. Experience in engineering gained under the supervision of a professional engineer or similarly qualified engineer, and experience in engineering gained subsequent to the attaining of an equivalent to the minimum requirements for certification as an engineer-in-training, of a grade and character satisfactory to the Board, shall be given full credit. In any case when the evidence presented



in the application does not appear to the Board conclusive nor warranting the issuance of a certificate of registration or a certificate as engineer-in-training without examination, the applicant may be required to present further evidence for the consideration of the Board, and may also be required to pass an oral or written examination, or both, as the Board may determine. Whenever the Board determines otherwise than by examination that an applicant has not produced sufficient evidence to show that he is competent to assume responsible charge of the work involved in the practice of engineering, and shall refuse to examine or to register such applicant, it shall set forth in writing its findings and the reasons for its conclusions, and furnish a copy thereof to the applicant;

(7) To prescribe the scope, manner, time, and place for the examination of applicants for registration as professional engineers, to provide for the conduct of and to conduct such examinations, and to make written reports of such examinations. The prescribed examinations shall be written, or written and oral, and designed to permit an applicant for registration as a professional engineer to take the examination in 2 stages. The 1st stage of the examination shall be designed to test the applicant's knowledge of fundamental engineering subjects, including mathematics, physical and applied sciences, properties of materials, and the principles of engineering design. Satisfactory passing of this portion of the examination shall constitute a credit for the life of the applicant or until he is registered as a professional engineer. The 2nd stage of the examination shall be designed to test the applicant's ability to apply the principles of engineering to the actual practice of engineering in the field of engineering in which he has indicated his principal activity. An applicant failing to pass an examination may apply for reexamination at the expiration of 6 months and will be reexamined upon payment of the prescribed fee;

(8) To issue a certificate of registration and a pocket registration card to each professional engineer granted registration under the provisions of this part. The certificate of registration shall authorize the registrant to practice as a professional engineer, show the full name of the registrant, have a serial number, and be signed by the members of the Board under the seal of the Board. The pocket registration card issued with the certificate shall show the full name and registration number of the registrant, state that the person named therein has been granted registration to practice as a professional engineer for the period ending on the 31st day of October in the 2nd year of the then current biennial registration renewal period, and be signed by the Chairman and Secretary-Treasurer of the Board; to provide for and regulate the renewal of registration of professional engineers registered under this part. On or before the 1st day of August 1952, and biennially thereafter, the Secretary-Treasurer of the Board shall mail to every professional engineer registered under this part a blank application for biennial renewal of registration, addressing such application to the last-known post-office address. Upon receipt of such application blank, a registrant shall execute and return the application for his biennial registration renewal card to the Board together with the biennial registration renewal fee of \$2. Upon receipt of such application and renewal fee the Board shall issue a pocket registration renewal

card which shall show the full name and registration number of the registrant, be signed by the Chairman and Secretary-Treasurer of the Board, and state that the person named therein has been granted registration to practice as a professional engineer for the period beginning November 1st in the year of issue and expiring on the 31st day of October in the 2nd year following. Application shall be made biennially on or before the 1st day of November and if not so made an additional fee of \$1 for each 30 days delay beyond the 1st day of November, and up to the 1st day of March following shall be added to the current biennial registration renewal fee to be paid upon renewal; to issue a duplicate certificate of registration to replace a certificate lost, destroyed, or mutilated, subject to the rules of the Board, and upon payment of the prescribed fee. The issuance of a certificate of registration by the Board shall be presumptive evidence in all courts and places that the person named therein is entitled to all the rights and privileges of a registered professional engineer while said certificate remains unsuspended, unrevoked, or unexpired;

(9) To issue a special certificate of registration and pocket registration card to every noncitizen professional engineer granted registration under the provisions of this part. The special certificate of registration shall authorize the registrant to practice as a professional engineer in connection with a specific project, show the full name of the registrant, have a registration number, and be signed by the members of the Board under the seal of the Board. The special pocket registration card issued with such certificate shall show the full name and registration number of the registrant, state that the person named therein has been granted temporary registration to practice as a professional engineer, state the specific project in connection with which the special registration is granted, the period for which it is granted, not to exceed 1 year from the date of issue, and be signed by the Chairman and Secretary-Treasurer of the Board. Temporary registration may be renewed at the discretion of the Board for periods not in excess of 1 year upon application therefor and payment of the annual renewal fee;

(10) To prescribe and to issue a certificate, attested by its seal and signed by the members of the Board, to any applicant who in the opinion of the Board has satisfactorily met all the requirements of this part for certification as an engineer-in-training;

(11) To keep a roster of all professional engineers registered under this part, showing the registrant's name, place of business or employment, registration number, and the general field or fields of engineering in which registrant qualified to practice, and a roster of engineers-in-training certified under this part. These rosters, together with other information deemed to be of interest to the engineering profession, shall be published in booklet form by the Board on the 1st day of March of each even year, beginning with 1952, or as soon thereafter as practicable. The Board shall also, upon the 1st day of March of each odd year, beginning with 1953, or as soon thereafter as practicable, publish a supplemental roster of all registered professional engineers and certified engineers-in-training. Such published rosters shall contain at the beginning thereof the words: "Each professional engineer receiving this roster is requested to report to the Board the names and addresses of any persons



known to be engaged in the practice of engineering in the District of Columbia whose names do not appear in this roster. The names of persons giving such information shall not be divulged." Copies of these rosters shall be mailed or otherwise sent to each registered professional engineer and engineer-in-training and be furnished to other persons upon request;

(12) To adopt and have an official seal, and to keep minutes and records of all its transactions and proceedings, and a complete record of the credentials of each applicant and registrant. A transcript of an entry in such minutes and records, certified by the Secretary-Treasurer under the seal of the Board, shall be prima facie evidence of the original entry in such minutes and records;

(13) To become a member of the National Council of State Boards of Engineering Examiners and to pay such dues as said Council shall establish, and to send a delegate to the annual meeting of said Council and to defray his reasonable and necessary expenses;

(14) To adopt, amend, rescind, promulgate, and enforce such administrative rules and regulations not inconsistent with this part, as are deemed necessary and proper by the Board to carry into effect the powers conferred by this part. To employ such clerical or other assistants as are necessary for the proper performance of its duties. The regular annual employees of the Board shall, for the purpose of laws relating to compensation, classification, retirement, and leave, be employees of the District of Columbia;

(15) To enforce the provisions of this part, to investigate for unauthorized and unlawful practice, to employ such persons as it may deem necessary to assist in the investigations and prosecutions incident to enforcement, to require the attendance of witnesses and the production of books and papers, and to require such witnesses to testify as to any and all matters within its jurisdiction. The Chairman and Secretary-Treasurer of the Board shall have power to issue subpoenas, and each shall have authority to administer oaths. Upon the failure of any person to attend as a witness, when duly subpoenaed, or to produce documents when duly directed by said Board, the Board shall have power to refer the said matter to any justice of the Superior Court of the District of Columbia, who may order the attendance of such witness, or the production of such documents, or require the said witness to testify, as the case may be, and upon the failure of the witness to attend, to testify, or to produce such documents, as the case may be, such witness may be punished for contempt of court as for failure to obey a subpoena issued or to testify in a case pending before said Court. Witnesses who have been subpoenaed by the Board, and who testify if called upon, shall be paid the same fees that are paid witnesses in the Superior Court of the District of Columbia;

(16) To refuse to issue a certificate to any person, or to suspend or revoke the certificate of registration of any professional engineer or the certification of any engineer-in-training issued hereunder if such person:

(A) Has been convicted of a felony;

(B) Has been found guilty of deceit, misrepresentation, violation of contract, fraud, or gross incompetency, in his practice;

(C) Has been found guilty of fraud or deceit in obtaining his registration or certification;

(D) Has aided or abetted any person in the violation of any provision of this part;

(E) Has violated any provision of this part; or

(F) Has been declared insane by a court of competent jurisdiction and has not thereafter been lawfully declared sane; and

(17) To reconsider the application of any person whose application has been refused or to reissue a certificate of registration to any professional engineer or a certification to any engineer-in-training whose certificate has been revoked for reasons the Board deems sufficient, upon payment of the prescribed fee for such reissuance.

(Sept. 19, 1950, 64 Stat. 856, ch. 953, § 8; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(c)(9)(A); July 22, 1976, D.C. Law 1-75, § 3(i), 23 DCR 1178; Mar. 3, 1979, D.C. Law 2-139, § 3205(e), 25 DCR 5740.)

**Cross references.** — Effective date provisions, see § 1-636.02.

**Prior Codifications.** — 1981 Ed., § 2-2308. 1973 Ed., § 2-1808.

**Legislative history of Law 1-75.** — Law 1-75, the “District of Columbia Age of Majority Act of 1976,” was introduced in Council and assigned Bill No. 1-252, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on April 6, 1976, and April 20, 1976, respectively. Signed by the Mayor on May 14, 1976, it was assigned Act No. 1-116 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 2-139.** — Law 2-139, the “District of Columbia Government Comprehensive Merit Personnel Act of 1978,” was introduced in Council and assigned Bill No. 2-10, which was referred to the Committee on Government Operations. The Bill was adopted on first and second readings on October 17, 1978 and October 31, 1978, respectively. Signed by the Mayor on November 22, 1978, it was assigned Act No. 2-300 and transmitted to both Houses of Congress for its review.

**Editor’s notes.** — Board of Registration for Professional Engineers abolished: See note to § 47-2886.05.

## CASE NOTES

### ANALYSIS

Established and recognized standing.  
Foreign trained engineers.  
In general.  
Practice of engineering.

### Established and recognized standing.

For purposes of determining if an engineer is of an established and recognized standing so that he may become licensed without passing an examination, the following factors apply: (1) is the applicant licensed as a professional engineer in any state; (2) is he a member of any professional institutes, societies or associations; (3) has he been elected to office in technical societies known to be selective regarding membership, or served on any national or international technical committees; (4) has he served on agency technical committees or review boards; (5) has he been invited to present or discuss technical papers before technical societies, or to review or prepare articles for presentation; (6) has he published articles in any recognized scientific, technical or trade journals; (7) has he patented any inventions; (8)

has he appeared in court as an expert witness; and (9) has he received any awards or professional honors. *Zhang v. D.C. Dep’t of Consumer & Regulatory Affairs*, 834 A.2d 97, 2003 D.C. App. LEXIS 625 (2003).

Department of Consumer and Regulatory Affairs could deny application for registration as professional electrical engineer without examination on basis that petitioner was not engineer of “established and recognized standing” due to lack of specific accomplishments, activities, and honors. *D.C. Code* 1981, §§ 1-1510(a), 2-2302(4), 2-2308(2)(A)(i-v). *Becker v. District of Columbia Dep’t of Consumer & Regulatory Affairs*, 518 A.2d 93, 1986 D.C. App. LEXIS 499 (1986).

Board of Registration for Professional Engineers for Department of Consumer and Regulatory Affairs could deny application for registration as professional electrical engineer without examination on basis that engineer had not been in responsible charge of important engineering work for five years where petitioner sought to satisfy criteria with his own testimony and one paragraph letters of support



from several professional engineers along with other material, absent specific objection to Board's revised findings. D.C. Code 1981, §§ 1-1510(a), 2-2302(4), 2-2308(2)(A)(i-v). *Becker v. District of Columbia Dep't of Consumer & Regulatory Affairs*, 518 A.2d 93, 1986 D.C. App. LEXIS 499 (1986).

#### **Foreign trained engineers.**

Board of Registration for Professional Engineers was required to consider foreign trained engineer's numerous achievements and accomplishments in China in determining whether engineer could be licensed without examination, rather than limit its consideration of engineer's professional experience to his activities in the United States, where engineer presented several witnesses and other evidence regarding his accomplishments in China. *Zhang v. D.C. Dep't of Consumer & Regulatory Affairs*, 834 A.2d 97, 2003 D.C. App. LEXIS 625 (2003).

Foreign trained engineer's licensure in China was entitled to some positive consideration by the Board of Registration for Professional Engineers in engineer's application for licensure without examination. *Zhang v. D.C. Dep't of Consumer & Regulatory Affairs*, 834 A.2d 97, 2003 D.C. App. LEXIS 625 (2003).

#### **In general.**

District Court did not abuse its discretion in dismissing one action and in granting summary judgment for defendants in another, which actions sought declaratory judgments against officials of District of Columbia government, alleging that such officials threatened criminal actions against plaintiff for its manner of use of

word "engineers" in its corporate name and business in claimed violation of Professional Engineers Registration Act, and seeking adjudication of dispute as to use of name, declaration that such use was legal, and injunction against criminal prosecution. D.C. Code 1951, § 2-1801 et seq. *T. V. Engineers, Inc. v. Bogan*, 274 F.2d 93, 1959 U.S. App. LEXIS 2918 (C.A.D.C. 1959).

District of Columbia statutory requirements for professional engineers can be met by natural persons only, and a corporation cannot be licensed as professional engineer. D.C. Code 1951, §§ 2-1801 to 2-1818. *Potomac Engineers v. Walser*, 223 F.2d 356, 1955 U.S. App. LEXIS 3971 (C.A.D.C. 1955).

#### **Practice of engineering.**

The preparation by duly licensed master electricians of plans, diagrams and computations for proposed installations in which carrying capacity will exceed 200 amperes or electrical potential will exceed 240 volts does not constitute "practice of engineering" as contemplated in the Professional Engineers' Registration Act, and order of Board of Commissioners of District of Columbia providing that plans and specifications for proposed electrical installations in excess of 240 amperes or 240 volts should be prepared by registered professional electrical engineer was not required under the legislation regulating the practice of engineering. D.C. Code 1951, §§ 1-244 et seq., 2-1001 et seq., 2-1801 et seq.; 18 U.S.C. § 2201. *Electrical Contractors Ass'n of District of Columbia v. McLaughlin*, 153 F.Supp. 653, 1957 U.S. Dist. LEXIS 3274 (D.D.C.1957).

## **§ 47-2886.09. District of Columbia Board of Registration for Professional Engineers — Complaints; hearings; appeals.**

(a) The Board may upon its own motion, and shall upon the sworn complaint in writing of any person setting forth charges which would constitute grounds for refusal, suspension, or revocation of a certificate, as set forth in § 47-2886.08(16), investigate the acts of any person holding or claiming to hold a certificate. All charges, unless dismissed by the Board as unfounded or trivial, shall be heard by the Board within 3 months after the date on which they shall have been filed.

(b) The Board shall, at least 30 days prior to the date set for the hearing, notify the accused in writing of any charges made, and shall afford him an opportunity to be heard in person or by counsel in reference thereto. Such notice may be served by its delivery personally to the accused licensee by the United States Marshal in the manner prescribed for service of original process in the Superior Court of the District of Columbia, or by mailing it by registered mail or by certified mail with return receipt demanded, to the place of business last theretofore specified by the accused in his last notification to the Board. At

the time and place fixed in the notice, the Board shall proceed to hearing of the charges and both the accused and the complainant shall be accorded ample opportunity to present, in person or by counsel, such testimony, evidence, and argument as may be pertinent to the charges or to any defense thereto. The Board may continue such hearing from time to time and shall give notice in writing to all parties in interest of the date and hour to which the hearing has been continued, and the place at which it is to be held.

(c) The Board shall preserve a complete record of all proceedings at the hearing of any case wherein a certificate is refused, revoked, or suspended. The notice of hearing, complaint, and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, and the orders of the Board shall be the record of such proceedings. The Board shall furnish a transcript of such record at cost to any person interested in such hearing.

(d) If, after completion of the hearing, the Board shall be of the opinion that the accused is guilty of the charges, or any of them, the Board shall issue an order refusing, suspending, or revoking the certificate. Such order shall be served upon the accused person either personally or by mailing it by registered mail to the address specified by the accused person in his last notification to the Board.

(e) Any person aggrieved by the action of the Board may appeal as provided in §§ 2-501 to 2-510.

(Sept. 19, 1950, 64 Stat. 862, ch. 953, § 9; June 11, 1960, 74 Stat. 202, Pub. L. 86-507, § 1(41); July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(c)(9)(B), 164(n).)

**Prior Codifications.** — 1981 Ed., § 2-2309.  
1973 Ed., § 2-1809.

Professional Engineers abolished: See note to § 47-2886.05.

**Editor's notes.** — Board of Registration for

## CASE NOTES

### In general.

Where District Court, on applicant's appeal from action of District of Columbia Board of Registration for Professional Engineers in denying application for registration, remanded case for rehearing, remand should have been

without qualification so that Board might, after hearing additional evidence, make initial decision on enlarged factual situation. D.C. Code 1951, §§ 2-1801 et seq., 2-1809(e). *Walser v. Merle*, 228 F.2d 465, 1955 U.S. App. LEXIS 3700 (C.A.D.C. 1955).

## § 47-2886.10. Exemptions from part.

Nothing in this part shall be construed to affect or prevent the following:

(1) The practice of engineering by any person who, within 1 year after September 19, 1950, has filed with the Board an application for registration under this part. This exemption shall continue only for such time as the Board may require for consideration of said application;

(2) The practice of engineering for not exceeding 30 days in the aggregate in 1 calendar year by a nonresident not having a place of business in the District of Columbia, if such person is licensed or registered to engage in the practice of engineering in a state or territory in which the requirements and



qualifications for obtaining a license or registration are reasonably equivalent to those specified in this part;

(3) The practice of engineering for more than 30 days by a nonresident not having a place of business in the District of Columbia, or by a person who has recently become a resident of or has recently entered the practice of engineering in the District of Columbia, and who has filed with the Board an application for registration, if such person is registered or licensed to engage in the practice of engineering in a state or territory in which the requirements and qualifications for obtaining a license or registration are reasonably equivalent to those specified in this part. Such practice shall be permitted only for such time as the Board requires for the consideration of the application;

(4) The performance of engineering work by any person who acts under the supervision of a professional engineer, or by an employee of a person lawfully engaged in the practice of engineering, and who, in either event, does not assume responsible charge of design or supervision;

(5) The practice of engineering as a consultant, officer, or employee of the government of the United States or the government of the District of Columbia while engaged solely in such practice for said governments;

(6) The practice of any other legally recognized profession;

(7) The practice of engineering exclusively as an officer or employee of a public utility corporation by rendering to such corporation such service in connection with its facilities and property which are subject to supervision with respect to safety and security thereof by the Public Service Commission of the District of Columbia and so long as such person is thus actually and exclusively employed and no longer; provided, however, that each such public utility corporation shall employ at least 1 registered professional engineer who shall be in responsible charge of such engineering work;

(8) The practice of architecture by a person authorized to use the title of architect or registered architect under the provisions of Chapter 16 of Title 3, and his doing such engineering work as is incidental to his architectural work;

(9) The construction or alteration of a building that does not cover over 1,000 square feet of ground area and does not have a height of over 20 feet to the uppermost ceiling, or 2 habitable floors above a basement;

(10) The execution of construction work as a contractor, or the superintendence of such construction work as a foreman or superintendent, or the work performed as a salesman of engineering equipment or apparatus;

(11) The operation or maintenance of boilers, machinery, or equipment when the operators are duly licensed under the provisions of Chapter 27 [repealed] of Title 3; or

(12) The usual supervision of construction or installation of equipment within a plant under his immediate supervision by a person ordinarily designated as supervising engineer or chief engineer of power.

(Sept. 19, 1950, 64 Stat. 863, ch. 953, § 10; Aug. 30, 1964, 78 Stat. 634, Pub. L. 88-503, § 21.)

**Editor's notes.** — Board of Registration for Professional Engineers abolished: See note to § 47-2886.05.

### CASE NOTES

#### ANALYSIS

Corporations.  
In general.

#### Corporations.

Corporation could be convicted under provision of Professional Engineers' Registration Act making it misdemeanor for anyone to represent himself to be professional engineer without being registered as provided in the act, though only natural person may be registered under act. D.C. Code 1951, §§ 2-1801 et seq., 2-1814. *T. V. Engineers, Inc. v. District of Columbia*, 166 A.2d 920, 1961 D.C. App. LEXIS 181 (Cr.App. 1961).

#### In general.

The preparation by duly licensed master electricians of plans, diagrams and computations for proposed installations in which carrying capacity will exceed 200 amperes or electrical potential will exceed 240 volts does not constitute "practice of engineering" as contemplated

in the Professional Engineers' Registration Act, and order of Board of Commissioners of District of Columbia providing that plans and specifications for proposed electrical installations in excess of 240 amperes or 240 volts should be prepared by registered professional electrical engineer was not required under the legislation regulating the practice of engineering. D.C. Code 1951, §§ 1-244 et seq., 2-1001 et seq., 2-1801 et seq.; 18 U.S.C. § 2201. *Electrical Contractors Ass'n of District of Columbia v. McLaughlin*, 153 F.Supp. 653, 1957 U.S. Dist. LEXIS 3274 (D.D.C.1957).

Fact that Professional Engineers' Registration Act excepts from its provisions practice of any other legally recognized profession did not require that information allege and that prosecution prove that defendant was not within exception, and defendant had burden of proving that it was within exception. D.C. Code 1951, §§ 2-1801 et seq., 2-1810(f), 2-1814. *T. V. Engineers, Inc. v. District of Columbia*, 166 A.2d 920, 1961 D.C. App. LEXIS 181 (Cr.App. 1961).

### § 47-2886.11. Seal of registrant.

(a) Each person registered under this part may obtain a seal of a design authorized by the Board which shall bear the registrant's name and registration number, the legend "Registered Professional Engineer," and such other words or figures as the Board may deem necessary. Such seal, or a facsimile imprint of same, shall be stamped on all plans, specifications, and reports by the registrant responsible for the accuracy and adequacy of such plans, specifications, and reports, when filed with public authorities.

(b) It shall be unlawful for a registered engineer to affix or permit his seal to be affixed to any plans, specifications, or drawings for which he does not assume full responsibility for the adequacy and accuracy thereof.

(c) It shall be unlawful for any person to use such seal during the period the registration of the holder thereof is expired, suspended, or revoked, or to use a seal of any design not approved by the Board.

(Sept. 19, 1950, 64 Stat. 864, ch. 953, § 11.)

**Prior Codifications.** — 1981 Ed., § 2-2311. 1973 Ed., § 2-1811.

Professional Engineers abolished: See note to § 47-2886.05.

**Editor's notes.** — Board of Registration for

### § 47-2886.12. Display of certificate of registration.

Whoever engages in the practice of engineering shall keep displayed in a



conspicuous place in his established place of business the certificate of registration granted him under this part, and evidence of current renewal.

(Sept. 19, 1950, 64 Stat. 864, ch. 953, § 12.)

**Prior Codifications.** — 1981 Ed., § 2-2312. 1973 Ed., § 2-1812.

### **§ 47-2886.13. Fees; Professional Engineers' Fund; expenses of Board; audit.**

(a) Each application for registration as a professional engineer shall be accompanied by the appropriate prescribed application fee and the registration fee. A person desiring certification as an engineer-in-training shall pay the prescribed application fee for such certification with his application and shall pay the additional application fee and the registration fee upon filing his application for registration as a professional engineer.

(b) Should the Board deny the issuance of a certificate of registration to any applicant, the registration fee deposited with the application shall be refunded.

(c) The amount of the fees prescribed in this part is that fixed by the following schedule:

(1) The application fee for professional engineer with 1st and 2nd-stage examination is \$20;

(2) The application fee for professional engineer without examination is \$10;

(3) The application fee for engineer-in-training with examination is \$7.50;

(4) The application fee for engineer-in-training without examination is \$5;

(5) The application fee for professional engineer with 2nd-stage examination is \$12.50;

(6) The fee for reexamination shall be determined by the Board not to exceed \$10;

(7) The registration fee for professional engineer is \$5;

(8) The biennial registration renewal fee for professional engineer is \$6;

(9) The fee for reissuance of a revoked certificate of engineer-in-training is \$7.50;

(10) The fee for reissuance of a revoked registration certificate is \$20;

(11) The fee for issuance of a duplicate certificate of registration is \$5; and

(12) The penalty for delinquency is \$1 for each month after the date upon which the biennial renewal fee became due; provided, however, that the total shall not exceed \$4.

(d) The Secretary-Treasurer of the Board shall receive and account for all money derived from the provisions of this part and shall keep such money in a separate fund to be known as "Professional Engineers' Fund," such Fund to be disbursed only by the Secretary-Treasurer upon itemized vouchers approved by the Chairman and attested by the Secretary-Treasurer of the Board. The Secretary-Treasurer shall furnish bond for the faithful discharge of his duties, in such form and amount as the Council of the District of Columbia shall require. The premium on such bond shall be regarded as a proper and necessary expense of the Board. The Secretary-Treasurer of the Board shall

receive such salary as the Mayor shall determine, in addition to the compensation provided for in § 47-2886.06 [omitted]. The Board may make expenditures from this Fund for any purpose which, in the opinion of the Board, is reasonably necessary for the proper performance of its duties under this part; provided, however, that such expenditures shall in no event exceed the total of receipts. For the purpose of any contemplated investigation or audit by the Inspector General, the Office of the Inspector General shall have free access to the books of account, records, and papers of the Board.

(Sept. 19, 1950, 64 Stat. 864, ch. 953, § 13; Sept. 14, 2011, D.C. Law 19-21, § 1063(a), 58 DCR 6226.)

**Cross references.** — Licensing and registration fees, see § 1-301.74.

**Prior Codifications.** — 1981 Ed., § 2-2313. 1973 Ed., § 2-1813.

**Effect of amendments.** — D.C. Law 19-21, in subsec. (d), substituted “For the purpose of any contemplated investigation or audit by the Inspector General,” for “It shall be the duty of the Office of the Inspector General of the District of Columbia to audit annually the accounts of the Board and make a report thereof to the Mayor. For the purpose of performance of such duty”.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 47-305.02.

**Editor’s notes.** — Board of Registration for Professional Engineers abolished: See note to § 47-2886.05.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commis-

sioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmental Organization in Volume 1). Section 402(69) of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to the District of Columbia Council, subject to the right of the Commissioner as provided in § 406 of the Plan. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 47-2886.14. Unlawful acts.

Whoever shall engage or offer to engage in the practice of engineering without being registered, or exempted, as provided in this part, or by verbal claim, sign, letterhead, card, or in any other way represent himself to be a professional engineer or through the use of any title including the word “engineer” or words of like import, or any other title, imply that he is a professional engineer without being registered as provided in this part, or shall present or attempt to use as his own the registration certificate of another, or shall give any false or forged evidence of any kind to the Board, or to any member thereof, in order to obtain registration as a professional engineer, or shall use any suspended or revoked registration, or shall otherwise violate the laws relating to the practice of engineering shall be guilty of a misdemeanor and shall be punishable by a fine of not more than \$500 or imprisonment for not more than 1 year, or both. Civil fines, penalties, and fees may be imposed as alternative sanctions for any infraction of the provisions of this part, or any rules or regulations issued under the authority of this part, pursuant to Chapter 18 of Title 2. Adjudication of any infraction of this part shall be pursuant to Chapter 18 of Title 2.



(Sept. 19, 1950, 64 Stat. 865, ch. 953, § 14; Oct. 5, 1985, D.C. Law 6-42, § 442, 32 DCR 4450.)

**Prior Codifications.** — 1981 Ed., § 2-2314. 1973 Ed., § 2-1814.

**Legislative history of Law 6-42.** — Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was

adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

**Editor's notes.** — Board of Registration for Professional Engineers abolished: See note to § 47-2886.05.

### CASE NOTES

#### In general.

Question whether use of name "T. V. Engineers Inc.," by corporation which employed no professional engineers, violated provision of Professional Engineers' Registration Act making it a misdemeanor for anyone to represent himself to be professional engineer without being registered, was factual determination for trial court. D.C. Code 1951, §§ 2-1801 et seq., 2-1814. *T. V. Engineers, Inc. v. District of Columbia*, 166 A.2d 920, 1961 D.C. App. LEXIS 181 (Cr.App. 1961).

Corporation could be convicted under provision of Professional Engineers' Registration Act making it misdemeanor for anyone to represent himself to be professional engineer without

being registered as provided in the act, though only natural person may be registered under act. D.C. Code 1951, §§ 2-1801 et seq., 2-1814. *T. V. Engineers, Inc. v. District of Columbia*, 166 A.2d 920, 1961 D.C. App. LEXIS 181 (Cr.App. 1961).

Fact that Professional Engineers' Registration Act excepts from its provisions practice of any other legally recognized profession did not require that information allege and that prosecution prove that defendant was not within exception, and defendant had burden of proving that it was within exception. D.C. Code 1951, §§ 2-1801 et seq., 2-1810(f), 2-1814. *T. V. Engineers, Inc. v. District of Columbia*, 166 A.2d 920, 1961 D.C. App. LEXIS 181 (Cr.App. 1961).

## § 47-2886.15. Prosecutions; legal services to Board; investigations; injunctions.

(a) All violations of laws relating to the practice of engineering in the District of Columbia shall be prosecuted in the Superior Court of the District of Columbia by the Attorney General for the District of Columbia. The Attorney General for the District of Columbia shall render such other legal services as may from time to time be required by the Board.

(b) The Chief of Police of the Metropolitan Police Department shall detail such members of his force as may be necessary to assist the Board in the investigations and prosecutions incident to the enforcement of this part.

(c) The Attorney General for the District of Columbia is hereby authorized to apply for relief by injunction to restrain a person from the commission of any act which is prohibited by this part. In such proceedings it shall not be necessary for the Attorney General for the District of Columbia to allege or prove either that an adequate remedy at law does not exist, or that substantial and irreparable damage would result, from the continued violation thereof.

(Sept. 19, 1950, 64 Stat. 866, ch. 953, § 15; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); Apr. 13, 2005, D.C. Law 15-354, § 76, 52 DCR 2638.)

**Prior Codifications.** — 1981 Ed., § 2-2315. 1973 Ed., § 2-1815.

**Effect of amendments.** — D.C. Law 15-354 substituted “Attorney General for the District of Columbia” for “Corporation Counsel”.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

**Editor’s notes.** — Board of Registration for Professional Engineers abolished: See note to § 47-2886.05.

## § 47-2886.16. Annual report.

The Board shall submit an annual report to the Mayor, the Inspector General, and the Office of the Secretary to the Council of the District of Columbia on the 1st Monday in August, containing a statement of moneys received and disbursed and a summary of its official acts during the next preceding fiscal year, and recommendations for such further legislation relating to the practice of engineering as may be necessary in the public interest.

(Sept. 19, 1950, 64 Stat. 866, ch. 953, § 16; Sept. 14, 2011, D.C. Law 19-21, § 1063(b), 58 DCR 6226.)

**Prior Codifications.** — 1981 Ed., § 2-2316. 1973 Ed., § 2-1816.

**Effect of amendments.** — D.C. Law 19-21 substituted “the Mayor, the Inspector General, and the Office of the Secretary of the Council of the District of Columbia” for “the Mayor”.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 47-305.02.

**Editor’s notes.** — Board of Registration for Professional Engineers abolished: See note to § 47-2886.05.

**Change in Government.** — This section originated at a time when local government powers were delegated to a Board of Commissioners of the District of Columbia (see Acts Relating to the Establishment of the District of Columbia and its Various Forms of Governmen-

tal Organization in Volume 1). Section 401 of Reorganization Plan No. 3 of 1967 (see Reorganization Plans in Volume 1) transferred all of the functions of the Board of Commissioners under this section to a single Commissioner. The District of Columbia Self-Government and Governmental Reorganization Act, 87 Stat. 818, § 711 (D.C. Code, § 1-207.11), abolished the District of Columbia Council and the Office of Commissioner of the District of Columbia. These branches of government were replaced by the Council of the District of Columbia and the Office of Mayor of the District of Columbia, respectively. Accordingly, and also pursuant to § 714(a) of such Act (D.C. Code, § 1-207.14(a)), appropriate changes in terminology were made in this section.

## § 47-2886.17. Severability.

If any section or sections, clause or clauses, of this part, or any regulations promulgated thereunder, be declared unconstitutional or invalid, that shall not invalidate any other sections or clauses of this part, or any other regulations promulgated thereunder.

(Sept. 19, 1950, 64 Stat. 866, ch. 953, § 17.)

**Prior Codifications.** — 1981 Ed., § 2-2317. 1973 Ed., § 2-1817.

## § 47-2886.18. Conflicting laws and regulations repealed.

All laws or parts of laws and regulations promulgated thereunder in conflict with the provisions of this part shall be, and the same are hereby, repealed.

(Sept. 19, 1950, 64 Stat. 866, ch. 953, § 18.)



**Cross references.** — Boards, commissions and committees, application of law, see § 1-321.02.

**Prior Codifications.** — 1981 Ed., § 2-2318. 1973 Ed., § 2-1818.

## PART E.

### ATHLETE AGENTS.

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#### § 47-2887.01. Definitions.

For the purposes of this part, the term:

(1) “Agency contract” means an agreement in which a student-athlete authorizes a person to negotiate or solicit on behalf of the student-athlete a professional-sports-services contract or an endorsement contract.

(2) “Athlete agent” means an individual who enters into an agency contract with a student-athlete or, directly or indirectly, recruits or solicits a student-athlete to enter into an agency contract. The term includes an individual who represents to the public that the individual is an athlete agent. The term does not include a spouse, parent, sibling, grandparent, or guardian of the student-athlete or an individual acting solely on behalf of a professional sports team or professional sports organization.

(3) “Athletic director” means an individual responsible for administering the overall athletic program of an educational institution or, if an educational institution has separately administered athletic programs for male students and female students, the athletic program for males or the athletic program for females, as appropriate.

(4) “Contact” means a communication, direct or indirect, between an athlete agent and a student-athlete, to recruit or solicit the student-athlete to enter into an agency contract.

(5) “Endorsement contract” means an agreement under which a student-athlete is employed or receives consideration to use on behalf of the other party any value that the student-athlete may have because of publicity, reputation, following, or fame obtained because of athletic ability or performance.

(6) “Intercollegiate sport” means a sport played at the collegiate level for which eligibility requirements for participation by a student-athlete are established by a national association for the promotion or regulation of collegiate athletics.

(7) “Person” means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.

(8) “Professional-sports-services contract” means an agreement under which an individual is employed, or agrees to render services, as a player on a professional sports team, with a professional sports organization, or as a professional athlete.

(9) “Record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(10) "Registration" means registration as an athlete agent pursuant to this part.

(11) "State" means a State of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

(12) "Student-athlete" means an individual who engages in, is eligible to engage in, or may be eligible in the future to engage in, any intercollegiate sport. If an individual is permanently ineligible to participate in a particular intercollegiate sport, the individual is not a student-athlete for purposes of that sport.

(Apr. 13, 2002, D.C. Law 14-107, § 3, 49 DCR 1193.)

**Legislative history of Law 14-107.** — Law 14-107, the "Uniform Athlete Agents Act of 2002", was introduced in Council and assigned Bill No. 14-334, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on December 4, 2001, and January 8, 2002, respectively. Signed by the Mayor on

January 30, 2002, it was assigned Act No. 14-250 and transmitted to both Houses of Congress for its review. D.C. Law 14-107 became effective on April 13, 2002.

**Editor's notes.** — Uniform Law: This section is based upon § 2 of the Uniform Athlete Agents Act.

## § 47-2887.02. Service of process; subpoenas.

(a) By acting as an athlete agent in the District of Columbia, a nonresident individual appoints the Mayor as the individual's agent for service of process in any civil action in the District of Columbia related to the individual's acting as an athlete agent in the District of Columbia.

(b) The Mayor may issue subpoenas for any material that is relevant to the administration of this part.

(Apr. 13, 2002, D.C. Law 14-107, § 3, 49 DCR 1193.)

**Legislative history of Law 14-107.** — For D.C. Law 14-107, see notes following § 47-2887.01.

**Editor's notes.** — Uniform Law: This section is based upon § 3 of the Uniform Athlete Agents Act.

## § 47-2887.03. Athlete agents; registration required; void contracts.

(a) Except as otherwise provided in subsection (b) of this section, an individual may not act as an athlete agent in the District of Columbia without holding a certificate of registration under § 47-2887.05 or § 47-2887.07.

(b) Before being issued a certificate of registration, an individual may act as an athlete agent in the District of Columbia for all purposes except signing an agency contract, if:

(1) A student-athlete or another person acting on behalf of the student-athlete initiates communication with the individual; and

(2) Within 7 days after an initial act as an athlete agent, the individual submits an application for registration as an athlete agent in the District of Columbia.

(c) An agency contract resulting from conduct in violation of this section is



void and the athlete agent shall return any consideration received under the contract.

(Apr. 13, 2002, D.C. Law 14-107, § 3, 49 DCR 1193).)

**Legislative history of Law 14-107.** — For D.C. Law 14-107, see notes following § 47-2887.01.

**Editor's notes.** — Uniform Law: This section is based upon § 4 of the Uniform Athlete Agents Act.

## **§ 47-2887.04. Registration as athlete agent; form; requirements.**

(a) An applicant for registration shall submit an application for registration to the Mayor in a form prescribed by the Mayor. An application filed under this section is a public record. The application must be in the name of an individual and, except as otherwise provided in subsection (b) of this section, signed or otherwise authenticated by the applicant under penalty of perjury and state or contain:

(1) The name of the applicant and the address of the applicant's principal place of business;

(2) The name of the applicant's business or employer, if applicable;

(3) Any business or occupation engaged in by the applicant for the 5 years next preceding the date of submission of the application;

(4) A description of the applicant's:

(A) Formal training as an athlete agent;

(B) Practical experience as an athlete agent; and

(C) Educational background relating to the applicant's activities as an athlete agent;

(5) The names and addresses of 3 individuals not related to the applicant who are willing to serve as references;

(6) The name, sport, and last known team for each individual for whom the applicant acted as an athlete agent during the 5 years next preceding the date of submission of the application;

(7) The names and addresses of all persons who are:

(A) With respect to the athlete agent's business if it is not a corporation, the partners, members, officers, managers, associates, or profit-sharers of the business; and

(B) With respect to a corporation employing the athlete agent, the officers, directors, and any shareholder of the corporation having an interest of 5% or greater;

(8) Whether the applicant or any person named pursuant to paragraph (7) of this subsection has been convicted of a crime that, if committed in the District of Columbia, would be a crime involving moral turpitude or a felony, and identify the crime;

(9) Whether there has been any administrative or judicial determination that the applicant or any person named pursuant to paragraph (7) of this subsection has made a false, misleading, deceptive, or fraudulent representation;

(10) Any instance in which the conduct of the applicant or any person

named pursuant to paragraph (7) of this subsection resulted in the imposition of a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event on a student-athlete or educational institution;

(11) Any sanction, suspension, or disciplinary action taken against the applicant or any person named pursuant to paragraph (7) of this subsection arising out of occupational or professional conduct; and

(12) Whether there has been any denial of an application for, suspension or revocation of, or refusal to renew, the registration or licensure of the applicant or any person named pursuant to paragraph (7) of this subsection as an athlete agent in any State.

(b) An individual who has submitted an application for, and holds a certificate of, registration or licensure as an athlete agent in another State, may submit a copy of the application and certificate in lieu of submitting an application in the form prescribed pursuant to subsection (a) of this section. The Mayor shall accept the application and the certificate from the other State as an application for registration in the District of Columbia if the application to the other State:

(1) Was submitted in the other State within 6 months next preceding the submission of the application in the District of Columbia and the applicant certifies that the information contained in the application is current;

(2) Contains information substantially similar to or more comprehensive than that required in an application submitted in the District of Columbia; and

(3) Was signed by the applicant under penalty of perjury.

(Apr. 13, 2002, D.C. Law 14-107, § 3, 49 DCR 1193.)

**Legislative history of Law 14-107.** — For D.C. Law 14-107, see notes following § 47-2887.01.

**Editor's notes.** — Uniform Law: This section is based upon § 5 of the Uniform Athlete Agents Act.

## § 47-2887.05. Certificate of registration; issuance or denial; renewal.

(a) Except as otherwise provided in subsection (b) of this section, the Mayor shall issue a certificate of registration to an individual who complies with § 47-2887.04(a) or whose application has been accepted under § 47-2887.04(b).

(b) The Mayor may refuse to issue a certificate of registration if the Mayor determines that the applicant has engaged in conduct that has a significant adverse effect on the applicant's fitness to act as an athlete agent. In making the determination, the Mayor may consider whether the applicant has:

(1) Been convicted of a crime that, if committed in the District of Columbia, would be a crime involving moral turpitude or a felony;

(2) Made a materially false, misleading, deceptive, or fraudulent representation in the application or as an athlete agent;

(3) Engaged in conduct that would disqualify the applicant from serving in a fiduciary capacity;

(4) Engaged in conduct prohibited by § 47-2887.13;



(5) Had a registration or licensure as an athlete agent suspended, revoked, or denied or been refused renewal of registration or licensure as an athlete agent in any State;

(6) Engaged in conduct the consequence of which was that a sanction, suspension, or declaration of ineligibility to participate in an interscholastic or intercollegiate athletic event was imposed on a student-athlete or educational institution; or

(7) Engaged in conduct that significantly adversely reflects on the applicant's credibility, honesty, or integrity.

(c) In making a determination under subsection (b) of this section, the Mayor shall consider:

(1) How recently the conduct occurred;

(2) The nature of the conduct and the context in which it occurred; and

(3) Any other relevant conduct of the applicant.

(d) An athlete agent may apply to renew a registration by submitting an application for renewal in a form prescribed by the Mayor. An application filed under this section is a public record. The application for renewal must be signed by the applicant under penalty of perjury and must contain current information on all matters required in an original registration.

(e) An individual who has submitted an application for renewal of registration or licensure in another State, in lieu of submitting an application for renewal in the form prescribed pursuant to subsection (d) of this section, may file a copy of the application for renewal and a valid certificate of registration or licensure from the other State. The Mayor shall accept the application for renewal from the other State as an application for renewal in the District of Columbia if the application to the other State:

(1) Was submitted in the other State within 6 months next preceding the filing in the District of Columbia and the applicant certifies the information contained in the application for renewal is current;

(2) Contains information substantially similar to or more comprehensive than that required in an application for renewal submitted in the District of Columbia; and

(3) Was signed by the applicant under penalty of perjury.

(f) A certificate of registration or a renewal of a registration is valid for 2 years.

(Apr. 13, 2002, D.C. Law 14-107, § 3, 49 DCR 1193).)

**Legislative history of Law 14-107.** — For D.C. Law 14-107, see notes following § 47-2887.01.

**Editor's notes.** — Uniform Law: This section is based upon § 6 of the Uniform Athlete Agents Act.

## § 47-2887.06. Suspension, revocation, or refusal to renew registration.

(a) The Mayor may suspend, revoke, or refuse to renew a registration for conduct that would have justified denial of registration under § 47-2887.05(b).

(b) The Mayor may deny, suspend, revoke, or refuse to renew a certificate of

registration or licensure only after proper notice and an opportunity for a hearing. Chapter 5 of Title 2 applies to this part.

(Apr. 13, 2002, D.C. Law 14-107, § 3, 49 DCR 1193.)

**Legislative history of Law 14-107.** — For D.C. Law 14-107, see notes following § 47-2887.01.

**Editor's notes.** — Uniform Law: This section is based upon § 7 of the Uniform Athlete Agents Act.

## § 47-2887.07. Temporary registration.

The Mayor may issue a temporary certificate of registration while an application for registration or renewal of registration is pending.

(Apr. 13, 2002, D.C. Law 14-107, § 3, 49 DCR 1193.)

**Legislative history of Law 14-107.** — For D.C. Law 14-107, see notes following § 47-2887.01.

**Editor's notes.** — Uniform Law: This section is based upon § 8 of the Uniform Athlete Agents Act.

## § 47-2887.08. Registration and renewal fees.

(a) An application for registration or renewal of registration must be accompanied by a fee established pursuant to subsection (b) of this section.

(b) The Mayor shall, by rule, establish reasonable fees for:

(1) An initial application for registration;

(2) An application for registration based upon a certificate of registration or licensure issued by another State;

(3) An application for renewal of registration; and

(4) An application for renewal of registration based upon an application for renewal of registration or licensure submitted in another State.

(Apr. 13, 2002, D.C. Law 14-107, § 3, 49 DCR 1193.)

**Legislative history of Law 14-107.** — For D.C. Law 14-107, see notes following § 47-2887.01.

**Editor's notes.** — Uniform Law: This section is based upon § 9 of the Uniform Athlete Agents Act.

## § 47-2887.09. Required form of contract.

(a) An agency contract must be in a record, signed or otherwise authenticated by the parties.

(b) An agency contract must state or contain:

(1) The amount and method of calculating the consideration to be paid by the student-athlete for services to be provided by the athlete agent under the contract and any other consideration the athlete agent has received or will receive from any other source for entering into the contract or for providing the services;

(2) The name of any person not listed in the application for registration or renewal of registration who will be compensated because the student-athlete signed the agency contract;

(3) A description of any expenses that the student-athlete agrees to reimburse;



- (4) A description of the services to be provided to the student-athlete;
- (5) The duration of the contract; and
- (6) The date of execution.

(c) An agency contract must contain, in close proximity to the signature of the student-athlete, a conspicuous notice in boldface type in capital letters stating:

**WARNING TO STUDENT-ATHLETE IF YOU SIGN THIS CONTRACT:**

(1) YOU MAY LOSE YOUR ELIGIBILITY TO COMPETE AS A STUDENT-ATHLETE IN YOUR SPORT;

(2) IF YOU HAVE AN ATHLETIC DIRECTOR, WITHIN 72 HOURS AFTER ENTERING INTO THIS CONTRACT, BOTH YOU AND YOUR ATHLETE AGENT MUST NOTIFY YOUR ATHLETIC DIRECTOR; AND

(3) YOU MAY CANCEL THIS CONTRACT WITHIN 14 DAYS AFTER SIGNING IT. CANCELLATION OF THIS CONTRACT MAY NOT REINSTATE YOUR ELIGIBILITY.

(d) An agency contract that does not conform to this section is voidable by the student-athlete. If a student-athlete voids an agency contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.

(e) The athlete agent shall give a record of the signed or otherwise authenticated agency contract to the student-athlete at the time of execution.

(Apr. 13, 2002, D.C. Law 14-107, § 3, 49 DCR 1193.)

**Legislative history of Law 14-107.** — For D.C. Law 14-107, see notes following § 47-2887.01.

**Editor's notes.** — Uniform Law: This section is based upon § 10 of the Uniform Athlete Agents Act.

## § 47-2887.10. Notice to educational institution.

(a) Within 72 hours after entering into an agency contract or before the next scheduled athletic event in which the student-athlete may participate, whichever occurs first, the athlete agent shall give notice in a record of the existence of the contract to the athletic director of the educational institution at which the student-athlete is enrolled or the athlete agent has reasonable grounds to believe the student-athlete intends to enroll.

(b) Within 72 hours after entering into an agency contract or before the next athletic event in which the student-athlete may participate, whichever occurs first, the student-athlete shall inform the athletic director of the educational institution at which the student-athlete is enrolled that he or she has entered into an agency contract.

(Apr. 13, 2002, D.C. Law 14-107, § 3, 49 DCR 1193.)

**Legislative history of Law 14-107.** — For D.C. Law 14-107, see notes following § 47-2887.01.

**Editor's notes.** — Uniform Law: This section is based upon § 11 of the Uniform Athlete Agents Act.

**§ 47-2887.11. Student-athlete's right to cancel.**

(a) A student-athlete may cancel an agency contract by giving notice of the cancellation to the athlete agent in a record within 14 days after the contract is signed.

(b) A student-athlete may not waive the right to cancel an agency contract.

(c) If a student-athlete cancels an agency contract, the student-athlete is not required to pay any consideration under the contract or to return any consideration received from the athlete agent to induce the student-athlete to enter into the contract.

(Apr. 13, 2002, D.C. Law 14-107, § 3, 49 DCR 1193.)

**Legislative history of Law 14-107.** — For D.C. Law 14-107, see notes following § 47-2887.01.

**Editor's notes.** — Uniform Law: This section is based upon § 12 of the Uniform Athlete Agents Act.

**§ 47-2887.12. Required records.**

(a) An athlete agent shall retain the following records for a period of 5 years:

(1) The name and address of each individual represented by the athlete agent;

(2) Any agency contract entered into by the athlete agent; and

(3) Any direct costs incurred by the athlete agent in the recruitment or solicitation of a student-athlete to enter into an agency contract.

(b) Records required by subsection (a) of this section to be retained are open to inspection by the Mayor during normal business hours.

(Apr. 13, 2002, D.C. Law 14-107, § 3, 49 DCR 1193.)

**Legislative history of Law 14-107.** — For D.C. Law 14-107, see notes following § 47-2887.01.

**Editor's notes.** — Uniform Law: This section is based upon § 13 of the Uniform Athlete Agents Act.

**§ 47-2887.13. Prohibited conduct.**

(a) An athlete agent, with the intent to induce a student-athlete to enter into an agency contract, may not:

(1) Give any materially false or misleading information or make a materially false promise or representation;

(2) Furnish anything of value to a student-athlete before the student-athlete enters into the agency contract; or

(3) Furnish anything of value to any individual other than the student-athlete or another registered athlete agent.

(b) An athlete agent may not intentionally:

(1) Initiate contact with a student-athlete unless registered under this part;

(2) Refuse or fail to retain or permit inspection of the records required to be retained by § 47-2887.12;

(3) Fail to register when required by § 47-2887.03;



(4) Provide materially false or misleading information in an application for registration or renewal of registration;

(5) Predate or postdate an agency contract; or

(6) Fail to notify a student-athlete before the student-athlete signs or otherwise authenticates an agency contract for a particular sport that the signing or authentication may make the student-athlete ineligible to participate as a student-athlete in that sport.

(Apr. 13, 2002, D.C. Law 14-107, § 3, 49 DCR 1193).)

**Legislative history of Law 14-107.** — For D.C. Law 14-107, see notes following § 47-2887.01.

**Editor's notes.** — Uniform Law: This section is based upon § 14 of the Uniform Athlete Agents Act.

## § 47-2887.14. Criminal penalties; prosecution by Attorney General.

An athlete agent who violates § 47-2887.13 is guilty of a misdemeanor and, upon conviction, is punishable by maximum fine of \$10,000 or imprisonment of 6 months, or both. Violations shall be prosecuted by the Attorney General for the District of Columbia in the name of the District of Columbia.

(Apr. 13, 2002, D.C. Law 14-107, § 3, 49 DCR 1193); Apr. 13, 2005, D.C. Law 15-354, § 73(l)(11), 52 DCR 2638.)

**Effect of amendments.** — D.C. Law 15-354 substituted "Attorney General for the District of Columbia" for "Corporation Counsel".

**Legislative history of Law 14-107.** — For D.C. Law 14-107, see notes following § 47-2887.01.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

**Editor's notes.** — Uniform Law: This section is based upon § 15 of the Uniform Athlete Agents Act.

## § 47-2887.15. Civil remedies.

(a) An educational institution has a right of action against an athlete agent or a former student-athlete for damages caused by a violation of this part. In an action under this section, the court may award to the prevailing party costs and reasonable attorney's fees.

(b) Damages of an educational institution under subsection (a) of this section include losses and expenses incurred because, as a result of the conduct of an athlete agent or former student-athlete, the educational institution was injured by a violation of this part or was penalized, disqualified, or suspended from participation in athletics by a national association for the promotion and regulation of athletics, by an athletic conference, or by reasonable self-imposed disciplinary action taken to mitigate sanctions likely to be imposed by such an organization.

(c) A right of action under this section does not accrue until the educational institution discovers or by the exercise of reasonable diligence would have discovered the violation by the athlete agent or former student-athlete.

(d) Any liability of the athlete agent or the former student-athlete under this section is several and not joint.

(e) This part does not restrict rights, remedies, or defenses of any person under law or equity.

(Apr. 13, 2002, D.C. Law 14-107, § 3, 49 DCR 1193.)

**Legislative history of Law 14-107.** — For D.C. Law 14-107, see notes following § 47-2887.01.

**Editor's notes.** — Uniform Law: This section is based upon § 16 of the Uniform Athlete Agents Act.

## § 47-2887.16. Administrative penalty.

The Mayor may assess a civil penalty against an athlete agent not to exceed \$25,000 for a violation of this part.

(Apr. 13, 2002, D.C. Law 14-107, § 3, 49 DCR 1193.)

**Legislative history of Law 14-107.** — For D.C. Law 14-107, see notes following § 47-2887.01.

**Editor's notes.** — Uniform Law: This section is based upon § 17 of the Uniform Athlete Agents Act.

## § 47-2887.17. Uniformity of application and construction.

In applying and construing this uniform part, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

(Apr. 13, 2002, D.C. Law 14-107, § 3, 49 DCR 1193.)

**Legislative history of Law 14-107.** — For D.C. Law 14-107, see notes following § 47-2887.01.

**Editor's notes.** — Uniform Law: This section is based upon § 18 of the Uniform Athlete Agents Act.

## § 47-2887.18. Electronic Signatures in Global and National Commerce Act.

The provisions of this part governing the legal effect, validity, or enforceability of electronic records or signatures, and of contracts formed or performed with the use of such records or signatures conform to the requirements of section 102 of the Electronic Signatures in Global and National Commerce Act, approved June 30, 2000 (114 Stat. 467; 5 U.S.C. § 7002) ("Act"), and supersede, modify, and limit the Act.

(Apr. 13, 2002, D.C. Law 14-107, § 3, 49 DCR 1193.)

**Legislative history of Law 14-107.** — For D.C. Law 14-107, see notes following § 47-2887.01.

**Editor's notes.** — Uniform Law: This section is based upon § 19 of the Uniform Athlete Agents Act.



## CHAPTER 29. ADMISSION TO LICENSED PLACES; POSTING OF PRICE SCALE.

Sec.

- 47-2901. Discrimination because of race or color prohibited in licensed places of amusement; penalty.
- 47-2902. Discrimination because of race or color prohibited in licensed hotels and restaurants; penalty.
- 47-2903. Increase of penalty provisions in § 47-2901.
- 47-2904. Recovery of fine; payment of moiety.
- 47-2905. [Repealed].
- 47-2906. [Repealed].
- 47-2907. Restaurants, hotels, barber shops, bathing houses, ice cream saloons, and soda fountains required to serve well-behaved persons.

Sec.

- 47-2908. Licensed restaurants, eating houses, barrooms, sample rooms, ice cream saloons, or soda fountains required to post price list.
- 47-2909. Transmission of price list to Assessor.
- 47-2910. Licensed restaurants, eating houses, barrooms, sample rooms, ice cream saloons, or soda fountains required to serve well-behaved persons at common prices.
- 47-2911. Failure to post or file price list; charging other or greater price; failure to serve any well-behaved person; penalty; enforcement.

### § 47-2901. Discrimination because of race or color prohibited in licensed places of amusement; penalty.

It shall not be lawful for any person or persons who shall have obtained a license from this Corporation for the purpose of giving a lecture, concert, exhibition, circus performance, theatrical entertainment, or for conducting a place of public amusement of any kind, to make any distinction on account of race or color, as regards the admission of persons to any part of the hall or audience room where such lecture, concert, exhibition, or other entertainment may be given; provided, that any person applying shall pay the regular price charged for admission to such part of the house as he or she may wish to occupy, and shall conduct himself or herself in an orderly and peaceable manner, while on the premises; and any person or persons offending herein shall forfeit and pay to this Corporation for each offense a fine of not less than \$10 nor more than \$20 to be collected and applied as are other fines. That all acts or parts of acts inconsistent with this section be, and the same are hereby repealed.

(June 10, 1869, ch. 36, p. 22, Corp. Laws of Wash., 66th Council, §§ 1, 2; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Discriminatory practices in public accommodations, prohibition, see § 2-1402.31.

**Section references.** — This section is referred to in §§ 47-2903 and 47-2904.

**Prior Codifications.** — 1981 Ed., § 47-2901.  
1973 Ed., § 47-2901.

**Editor's notes.** — Extension of section's area of applicability: Order No. 56-874, dated May 3, 1956, issued by Commissioners of the District of Columbia, extended the area of applicability of this section to the District of Columbia outside the limits of the City of Washington.

CASE NOTES

ANALYSIS

In general.

Persons defined.

Place of amusement defined.

**In general.**

The Fourteenth Amendment, with its guaranty of "equal protection of the laws," does not apply to the District of Columbia, but the Fifth Amendment as applied to the District implies, at least to some extent, equal protection of the law, and discrimination may be so unjustifiable as to violate due process. U.S. Const. Amends. 5, 14. *Central Amusement Co. v. District of Columbia*, 121 A.2d 865, 1956 D.C. App. LEXIS 200 (Cr.App. 1956).

Fact that act adopted by corporation of city of Washington prohibiting persons who have obtained license for conducting place of public amusement of any kind from making any distinction on account of race or color was applicable only to that part of the District of Columbia formerly included in the cities of Washington and Georgetown, did not render act invalid as violation of due process. D.C. Code 1951, § 1-107; U.S. Const. Amends. 5, 14. *Central Amusement Co. v. District of Columbia*, 121 A.2d 865, 1956 D.C. App. LEXIS 200 (Cr.App. 1956).

**Persons defined.**

The word "persons", as used in act of corpo-

ration of city of Washington prohibiting persons who have obtained license for purpose of giving a lecture, concert, exhibition, circus performance, theatrical performance, or for conducting place of public amusement of any kind, from making any distinction on account of race or color, applies to corporations as well as natural persons. D.C. Code 1951, § 1-107. *Central Amusement Co. v. District of Columbia*, 121 A.2d 865, 1956 D.C. App. LEXIS 200 (Cr.App. 1956).

Statutory use of the word "persons" to include corporations is so general that to hold corporations are not included requires clear proof of legislative intent to exclude them. *Central Amusement Co. v. District of Columbia*, 121 A.2d 865, 1956 D.C. App. LEXIS 200 (Cr.App. 1956).

**Place of amusement defined.**

A bowling alley was a place of "public amusement" within act of corporation of city of Washington prohibiting persons who have obtained license for purpose of giving a lecture, concert, exhibition, circus performance, theatrical performance, or for conducting place of public amusement of any kind from making any distinction on account of race or color. D.C. Code 1951, § 1-107. *Central Amusement Co. v. District of Columbia*, 121 A.2d 865, 1956 D.C. App. LEXIS 200 (Cr.App. 1956).

**§ 47-2902. Discrimination because of race or color prohibited in licensed hotels and restaurants; penalty.**

(a) It shall not be lawful for the keeper, proprietor, or proprietors of any licensed hotel, tavern, restaurant, ordinary, sample room, tippling house, saloon, or eating house, to refuse to receive, admit, entertain, and supply any quiet and orderly person or persons, or to exclude any person or persons on account of race or color.

(b) If the keeper, proprietor, or proprietors of any licensed hotel, tavern, restaurant, ordinary, sample room, tippling house, saloon, or eating house, or any agent acting for him or them, shall violate or offend against the provisions of §§ 47-2902 to 47-2904, he or they shall be subject to a fine of not less than \$50 for each violation thereof, to be recovered in an action of debt, in the name of the Mayor and Council of the District of Columbia, on information filed before any District of Columbia court.

(Mar. 7, 1870, ch. 42, p. 22, Corp. Laws of Wash., 67th Council, §§ 1, 2; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)



**Cross references.** — Discriminatory practices in public accommodations, prohibition, see § 2-1402.31.

**Section references.** — This section is referred to in §§ 47-2903 and 47-2904.

**Prior Codifications.** — 1981 Ed., § 47-2902.

1973 Ed., § 47-2902.

## CASE NOTES

### ANALYSIS

Former law.  
In general.

### Former law.

"Rightful subjects of legislation" within District of Columbia Organic Act of 1871 extending with certain exceptions the legislative power of District to all rightful subjects of legislation within District consistent with Federal Constitution and provisions of Organic Act is as broad as police power of state so as to include a law prohibiting discriminations against Negroes by owners and managers of restaurants in District of Columbia. Act Feb. 21, 1871, § 18, 16 Stat. 419; Laws D.C.1871-1873, p. 65, §§ 1-3, p. 116, §§ 1-4; U.S. Const. art. 1, § 8, cl. 17. District of Columbia v. John R. Thompson Co., 73 S.Ct. 1007, 1953 U.S. LEXIS 2001 (U.S.Dist.Col. 1953).

The 1873 District of Columbia anti-discrimination regulatory law prescribing in terms of civil rights the duties of restaurateurs to members of public has not been modified, altered or repealed by non-use and administrative practice and by exercise for 75 years of licensing authority over restaurants without regard to equal service requirements. Laws D.C.1871-1873, p. 65, §§ 1-3, p. 116, §§ 1-4; Act June 11, 1878, 20 Stat. 102; D.C. Code 1951, §§ 47-2301, 47-2327, 47-2345. District of Columbia v. John R. Thompson Co., 73 S.Ct. 1007, 1953 U.S. LEXIS 2001 (U.S.Dist.Col. 1953).

So far as Federal Constitution is concerned, legislation which prohibits discrimination on basis of race in use of facilities serving a public function is within police power of the states. District of Columbia v. John R. Thompson Co., 73 S.Ct. 1007, 1953 U.S. LEXIS 2001 (U.S.Dist.Col. 1953).

The 1872 and 1873 anti-discrimination laws governing restaurants in District of Columbia are "police regulations" and "acts relating to municipal affairs" within District of Columbia Code of 1901 saving such regulations and acts from repeal. Laws D.C.1871-1873, p. 65, §§ 1-3, p. 116, §§ 1-4; D.C. Code 1901, § 1636. District of Columbia v. John R. Thompson Co., 73 S.Ct.

1007, 1953 U.S. LEXIS 2001 (U.S.Dist.Col. 1953).

The 1873 Act of Legislative Assembly of District of Columbia making it a crime for restaurateurs and others to discriminate against person or to refuse to serve him on account of race or color has survived all subsequent changes in Government of District and remains a part of governing body of laws applicable to District. Laws D.C.1871-1873, p. 65, §§ 1-3, p. 116, §§ 1-4; Act June 20, 1874, § 2, 18 Stat. 116; Rev.St.D.C.1873, 1874, § 91; Act June 11, 1878, § 1, 20 Stat. 102. District of Columbia v. John R. Thompson Co., 73 S.Ct. 1007, 1953 U.S. LEXIS 2001 (U.S.Dist.Col. 1953).

The 1873 Act of Legislative Assembly of District of Columbia making it unlawful for restaurateurs to discriminate against or refuse to serve any well-behaved and respectable person repeals 1872 anti-discrimination law insofar as it applied to restaurants in District of Columbia. Comp.St.1894, C. 16, §§ 148 et seq., 151 et seq. John R. Thompson Co. v. District of Columbia, 214 F.2d 210, 1954 U.S. App. LEXIS 2675 (C.A.D.C. 1954).

### In general.

Section of equal services law barring discrimination in restaurants does not mandate non-discriminatory treatment based on age. D.C. Code § 47-2902(a). D. T. Corp. v. District of Columbia Alcoholic Beverage Control Board, 407 A.2d 707, 1979 D.C. App. LEXIS 475 (1979).

In the absence of constitutional or statutory rights, common-law rule that restaurant owner has right to arbitrarily refuse service to any guest still controls. D.C. Code §§ 22-3102, 47-2902. Feldt v. Marriott Corp., 322 A.2d 913, 1974 D.C. App. LEXIS 250 (1974).

Statutory requirement that a restaurant must serve any quiet or orderly person does not prevent a restaurant from having reasonable requirements as to dress of its customers, such as a requirement that all male customers wear coats and ties or that all customers wear shoes. D.C. Code §§ 22-3102, 47-2902. Feldt v. Marriott Corp., 322 A.2d 913, 1974 D.C. App. LEXIS 250 (1974).

## § 47-2903. Increase of penalty provisions in § 47-2901.

In lieu of the penalties provided in § 47-2901 for the offense therein

mentioned, the penalty mentioned in § 47-2902(b) is hereby substituted, and hereafter shall be applicable to and enforced, as herein provided, for any violation of § 47-2901.

(Mar. 7, 1870, ch. 42, p. 22, Corp. Laws of Wash., 67th Council, § 3; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Section references.** — This section is referred to in §§ 47-2902 and 47-2904. 1973 Ed., § 47-2903.

**Prior Codifications.** — 1981 Ed., § 47-2903.

## § 47-2904. Recovery of fine; payment of moiety.

After the final conviction of any party for the violation of any of the provisions of §§ 47-2901 to 47-2903, and the recovery of the fine, a sum equal in amount to one-half of such fine shall be paid, and warrant drawn in the usual form out of the General Fund, to the party who may have been the informer in any such case. That all acts or parts of acts that are inconsistent with the provisions of §§ 47-2902 to 47-2904 are hereby repealed.

(Mar. 7, 1870, ch. 42, p. 22, Corp. Laws of Wash., 67th Council, §§ 4, 5; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Section references.** — This section is referred to in § 47-2902. 1973 Ed., § 47-2904.

**Prior Codifications.** — 1981 Ed., § 47-2904.

## § 47-2905. Posting of price scale. [Repealed].

Repealed.

(Leg. Assem., June 20, 1872, § 1; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 29, 2004, D.C. Law 15-154, § 11(b), 50 DCR 10996.)

**Prior Codifications.** — 1981 Ed., § 47-2905.

1973 Ed., § 47-2905.

**Legislative history of Law 15-154.** — Law 15-154, the “Elimination of Outdated Crimes Amendment Act of 2003”, was introduced in Council and assigned Bill No. 15-79, which was referred to Committee on the Judiciary. The

Bill was adopted on first and second readings on October 7, 2003, and November 4, 2003, respectively. Signed by the Mayor on November 25, 2003, it was assigned Act No. 15-255 and transmitted to both Houses of Congress for its review. D.C. Law 15-154 became effective on April 29, 2004.

## § 47-2906. Penalty for failure to post price scale. [Repealed].

Repealed.

(Leg. Assem., June 20, 1872, § 2; Oct. 5, 1985, D.C. Law 6-42, § 484, 32 DCR 4450; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 29, 2004, D.C. Law 15-154, § 11(c), 50 DCR 10996.)



**Prior Codifications.** — 1981 Ed., § 47-2906.

1973 Ed., § 47-2906.

**Legislative history of Law 6-42.** — Law 6-42, the "Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985," was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on

Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 15-154.** — For Law 15-154, see notes following § 47-2905.

## § 47-2907. Restaurants, hotels, barber shops, bathing houses, ice cream saloons, and soda fountains required to serve well-behaved persons.

Any restaurant keeper or proprietor, any hotel keeper or proprietor, proprietors or keepers of ice cream saloons or places where soda water is kept for sale, or keepers of barber shops and bathing houses, refusing to sell or wait upon any respectable well-behaved person, without regard to race, color, or previous condition of servitude, or any restaurant, hotel, ice cream saloon or soda fountain, barber shop or bathing house keepers, or proprietors, who refuse under any pretext to serve any well-behaved, respectable person, in the same room, and at the same prices as other well-behaved and respectable persons are served, shall be deemed guilty of a misdemeanor, and upon conviction in a court having jurisdiction, shall be fined \$100, and shall forfeit his or her license as keeper or owner of a restaurant, hotel, ice cream saloon, or soda fountain, as the case may be, and it shall not be lawful for the Assessor or any officer of the District of Columbia to issue a license to any person or persons, or to their agent or agents, who shall have forfeited their license under the provisions of §§ 47-2905 to 47-2907, until a period of 1 year shall have elapsed after such forfeiture.

(Leg. Assem., June 20, 1872, § 3; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Discriminatory practices in public accommodations, prohibition, see § 2-140

**Prior Codifications.** — 1981 Ed., § 47-2907.

1973 Ed., § 47-2907.

**Editor's notes.** — Office of Assessor abolished: See Historical and Statutory Notes following § 47-413.

### CASE NOTES

#### Former law.

So far as Federal Constitution is concerned, legislation which prohibits discrimination on basis of race in use of facilities serving a public function is within police power of the states. *District of Columbia v. John R. Thompson Co.*, 73 S.Ct. 1007, 1953 U.S. LEXIS 2001 (U.S. Dist. Col. 1953).

The 1874 Act abolishing Legislative Assembly of District of Columbia and the 1878 Organic Act precluded repeal of 1872 and 1873 anti-discrimination laws of Legislative Assembly except by Act of Congress. Laws D.C. 1871-

1873, p. 65, §§ 1-3, p. 116, §§ 1-4; Act June 20, 1874, § 2, 18 Stat. 116; Rev. St. D.C. 1873, 1874, § 91; Act June 11, 1878, § 1, 20 Stat. 102. *District of Columbia v. John R. Thompson Co.*, 73 S.Ct. 1007, 1953 U.S. LEXIS 2001 (U.S. Dist. Col. 1953).

The 1872 and 1873 anti-discrimination laws governing restaurants in District of Columbia are "police regulations" and "acts relating to municipal affairs" within District of Columbia Code of 1901 saving such regulations and acts from repeal. Laws D.C. 1871-1873, p. 65, §§ 1-3, p. 116, §§ 1-4; D.C. Code 1901, § 1636. District

of *Columbia v. John R. Thompson Co.*, 73 S.Ct. 1007, 1953 U.S. LEXIS 2001 (U.S.Dist.Col. 1953).

The 1873 District of Columbia anti-discrimination regulatory law prescribing in terms of civil rights the duties of restaurateurs to members of public has not been modified, altered or repealed by non-use and administrative practice and by exercise for 75 years of licensing authority over restaurants without regard to equal service requirements. Laws D.C.1871-1873, p. 65, §§ 1-3, p. 116, §§ 1-4; Act June 11, 1878, 20 Stat. 102; D.C. Code 1951, §§ 47-2301, 47-2327, 47-2345. *District of Columbia v. John R. Thompson Co.*, 73 S.Ct. 1007, 1953 U.S. LEXIS 2001 (U.S.Dist.Col. 1953).

"Rightful subjects of legislation" within District of Columbia Organic Act of 1871 extending with certain exceptions the legislative power of District to all rightful subjects of legislation within District consistent with Federal Constitution and provisions of Organic Act is as broad as police power of state so as to include a law prohibiting discriminations against Negroes by owners and managers of restaurants in District of Columbia. Act Feb. 21, 1871, § 18, 16 Stat. 419; Laws D.C.1871-1873, p. 65, §§ 1-3, p. 116, §§ 1-4; U.S. Const. art. 1, § 8, cl. 17. *District of Columbia v. John R. Thompson Co.*, 73 S.Ct. 1007, 1953 U.S. LEXIS 2001 (U.S.Dist.Col. 1953).

The 1873 Act of Legislative Assembly of District of Columbia making it a crime for restaurateurs and others to discriminate against person or to refuse to serve him on account of race or color has survived all subsequent changes in Government of District and remains a part of governing body of laws applicable to District. Laws D.C.1871-1873, p. 65, §§ 1-3, p. 116, §§ 1-4; Act June 20, 1874, § 2, 18 Stat. 116; Rev.St.D.C.1873, 1874, § 91; Act June 11, 1878, § 1, 20 Stat. 102. *District of Columbia v. John R. Thompson Co.*, 73 S.Ct. 1007, 1953 U.S. LEXIS 2001 (U.S.Dist.Col. 1953).

The 1873 Act of Legislative Assembly of District of Columbia making it unlawful for restaurateurs to discriminate against or refuse to serve any well-behaved and respectable person repeals 1872 anti-discrimination law insofar as it applied to restaurants in District of Columbia. Comp.St.1894, C. 16, §§ 148 et seq., 151 et seq. *John R. Thompson Co. v. District of Columbia*, 214 F.2d 210, 1954 U.S. App. LEXIS 2675 (C.A.D.C. 1954).

Acts of the Legislative Assembly for the District of Columbia making it a misdemeanor for restaurant proprietors and proprietors of similar establishments to refuse to serve any well-behaved respectable person without regard to race or color, were not invalid on ground that they were general legislation beyond the power of the Assembly to enact. Act Cong. Feb. 21, 1871, 16 Stat. 419, §§ 1 et seq., 5, 18; Comp.St.1894, c. 16, §§ 148 et seq., 151 et seq. *District of Columbia v. John R. Thompson Co.*, 81 A.2d 249, 1951 D.C. App. LEXIS 168 (Cr.App. 1951).

Acts of the Legislative Assembly for the District of Columbia making it a misdemeanor for restaurant proprietors and proprietors of similar establishments to refuse to serve any well-behaved respectable person without regard to race or color, are not invalid on ground that they are discriminatory because all businesses are not included. Act Cong. Feb. 21, 1871, 16 Stat. 419, §§ 1 et seq., 5, 18; Comp.St.1894, c. 16, §§ 148 et seq., 151 et seq. *District of Columbia v. John R. Thompson Co.*, 81 A.2d 249, 1951 D.C. App. LEXIS 168 (Cr.App. 1951).

Act of 1872 of the Legislative Assembly for the District of Columbia making it a misdemeanor for restaurant proprietors and proprietors of similar establishments to refuse to serve any well-behaved respectable person without regard to race or color is not in effect, and no prosecution can be based thereon. Comp.St.1894, c. 16, § 148 et seq. *District of Columbia v. John R. Thompson Co.*, 81 A.2d 249, 1951 D.C. App. LEXIS 168 (Cr.App. 1951).

## § 47-2908. Licensed restaurants, eating houses, barrooms, sample rooms, ice cream saloons, or soda fountains required to post price list.

The proprietor or proprietors, or keeper or keepers, of every licensed restaurant, eating house, barroom, sample room, ice cream saloon, or soda fountain room, or establishment in the District of Columbia, shall put up, or cause to be kept up, and to be regularly kept up, or cause to be kept up, in 2 conspicuous places in the chief room or rooms of his, her, or their restaurant, eating house, barroom, ice cream saloon, or soda fountain room, and in 1 conspicuous place in each small or private room, if any, used in connection with said restaurant, eating house, barroom, sample room, ice cream saloon, and soda fountain room, for the accommodation of guests, visitors, or customers



thereat, printed cards or papers, on which shall be distinctly printed the common or usual price for which each article or thing kept in any of said places or establishments to be eaten or drank therein is or may be commonly sold, or the price or prices for which the articles or things are or may be commonly or usually furnished to persons calling for, desiring, or receiving the same or any part or parts thereof, and no greater price or prices than those mentioned or contained on said cards or printed papers shall be asked for, demanded, or received from any person or persons for any of the articles or things kept in any manner for sale in any of the places or establishments aforesaid, either by said proprietor or proprietors, keeper or keepers, or by their agents, employees, or anyone acting in any manner for them.

(3 Leg. Assem., June 26, 1873, ch. 46, § 1; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Section references.** — This section is referred to in § 47-2911. 1973 Ed., § 47-2908.

**Prior Codifications.** — 1981 Ed., § 47-2908.

### § 47-2909. Transmission of price list to Assessor.

On or before the first day of November in each year the proprietor or proprietors, keeper or keepers, of each licensed restaurant, eating house, barroom, sample room, ice cream saloon, and soda fountain room or establishment in said District, as aforesaid, shall transmit to the Assessor of said District a printed copy of the usual or common price or prices of articles or things kept for sale by him, her, or them, as aforesaid, which shall be filed by the Assessor in his office, and unless he is notified of changes therein, the copy transmitted and filed in said office may be used in any case or proceeding under §§ 47-2909 to 47-2911 as prima facie evidence of the common or usual prices charged for the articles or things mentioned therein by the proprietor or proprietors, keeper or keepers, of any of the places or establishments aforesaid, and in a failure of any proprietor or proprietors, keeper or keepers, to transmit the copy aforesaid, the Assessor shall notify such person of such failure, and require such copy to be forthwith transmitted to him.

(3 Leg. Assem., June 26, 1873, ch. 46, § 2; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Section references.** — This section is referred to in § 47-2911. 1973 Ed., § 47-2909.

**Prior Codifications.** — 1981 Ed., § 47-2909. **Editor's notes.** — Office of Assessor abolished: See Historical and Statutory Notes following § 47-413.

### § 47-2910. Licensed restaurants, eating houses, barrooms, sample rooms, ice cream saloons, or soda fountains required to serve well-behaved persons at common prices.

The proprietor or proprietors, keeper or keepers, of any licensed restaurant,

eating house, barroom, sample room, ice cream saloon, or soda fountain room shall sell at and for the usual or common prices charged by him, her, or them, as contained in said printed cards or papers, any article or thing kept for sale by him, her, or them to any well-behaved and respectable person or persons who may desire the same, or any part or parts thereof, and serve the same to such person or persons in the same room or rooms in which any other well-behaved person or persons may be served or allowed to eat or drink in said place or establishment; provided, that persons of different sexes shall not be accommodated in the same room or rooms unless they accompany each other, or call for any articles or things together, or unless said room or rooms are ordinarily used indiscriminately by persons of both sexes.

(3 Leg. Assem., June 26, 1873, ch. 46, § 3; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Section references.** — This section is referred to in §§ 47-2909 and 47-2911. 1973 Ed., § 47-2910.

**Prior Codifications.** — 1981 Ed., § 47-2910.

## § 47-2911. Failure to post or file price list; charging other or greater price; failure to serve any well-behaved person; penalty; enforcement.

If the proprietor or proprietors, keeper or keepers, of any place or establishment, as aforesaid, shall neglect or refuse to put up printed cards or papers of prices as provided for in § 47-2908, or shall refuse to send a copy or duplicate to the Assessor as provided in § 47-2909, or shall place or cause to be placed on said card or paper, or permit to be placed thereon any price or prices other or greater than that for which any article or thing is, or may be, usually and commonly sold or furnished by him, her, or them, or different from or more than is usually or commonly demanded or received therefor by him, her, or them, or by his, her, or their authority or direction, or shall demand or receive in any manner, or under any circumstances, or for any reason or pretence, in person or by any employee or agent, from any person or persons aforesaid, any sum or prices different or greater than is contained on said cards or papers, or than is usually and commonly asked or received for any article or thing kept for sale as aforesaid, or shall refuse or neglect, in person or by his, her, or their employee or agent, directly or indirectly, to accommodate any well-behaved and respectable person as aforesaid in his, her, or their restaurant, eating house, barroom, sample room, ice cream saloon, or soda fountain room, or shall refuse or neglect to sell at the common and usual prices aforesaid in and at his, her, or their restaurant, eating house, barroom, sample room, ice cream saloon, or soda fountain room, to any such person or persons therein at said prices, any article or thing kept therein and in the room or rooms in which such articles or things are ordinarily sold and served or allowed to be eaten or drank, or shall at any time or in any way or manner, or under any circumstances, or for any reason, cause, or pretext, fail, decline, object, or refuse to treat any person or persons aforesaid as any other well-behaved and respectable person or persons



are treated at said restaurant, eating house, barroom, sample room, ice cream saloon, or soda fountain room, he, she, or they, on conviction of a disregard or violation of any provision, regulation, or requirement of §§ 47-2908, 47-2909, 47-2910, and 47-2911 or any part of §§ 47-2908, 47-2909, 47-2910, and 47-2911 contained, shall be fined \$100, and forfeit his, her, or their license; and it shall not be lawful for any officer of the District to issue a license to any person or persons, or their agent or agents, whose license may be forfeited under the provisions of §§ 47-2908, 47-2909, 47-2910, and 47-2911 for 1 year after such forfeiture; provided, that the provisions of §§ 47-2908, 47-2909, 47-2910, and 47-2911 shall be enforced by information in the Superior Court of the District of Columbia, filed on behalf thereof by its proper attorney or attorneys, subject to appeal to the District of Columbia Court of Appeals in the same manner as is now or may be hereafter provided for the enforcement of the District fines and penalties under ordinances and law.

(3 Leg. Assem., June 26, 1873, ch. 46, § 4; Apr. 1, 1942, 56 Stat. 190, ch. 207, § 1; July 8, 1963, 77 Stat. 77, Pub. L. 88-60, § 1; July 29, 1970, 84 Stat. 570, Pub. L. 91-358, title I, § 155(a); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Section references.** — This section is referred to in § 47-2909.

**Prior Codifications.** — 1981 Ed., § 47-2911.

1973 Ed., § 47-2911.

**Editor's notes.** — Office of Assessor abolished: See Historical and Statutory Notes following § 47-413.

CHAPTER 30. PRIVATE EMPLOYMENT AGENCY LICENSES. [REPEALED].

Sec.

47-3001 to 47-3009. [Repealed].

Sec.

47-3010, 47-3011. [Repealed].

**§§ 47-3001 to 47-3009. License requirement; definitions; bond; registers; receipts; location of agency; application for employment by minor; inspection; false information; exceptions from license requirements. [Repealed].**

Repealed.

(Mar. 13, 1985, D.C. Law 5-136, § 19(b), 31 DCR 5727.)

**Prior Codifications.** — 1981 Ed., §§ 47-3001 to 47-3009.

**Legislative history of Law 5-136.** — Law 5-136, the “Employment Services Licensing and Regulation Act of 1984,” was introduced in Council and assigned Bill No. 5-280, which was referred to the Committee on Consumer and

Regulatory Affairs. The Bill was adopted on first and second readings on September 12, 1984 and October 9, 1984, respectively. Signed by the Mayor on October 25, 1984, it was assigned Act No. 5-194 and transmitted to both Houses of Congress for its review.

**§§ 47-3010, 47-3011. Employment contract; character of employer; fraud. [Repealed].**

Repealed.

(Mar. 13, 1985, D.C. Law 5-136, § 19(a), 31 DCR 5727.)

**Prior Codifications.** — 1981 Ed., §§ 47-3010, 47-3011.

**Legislative history of Law 5-136.** — For

legislative history of D.C. Law 5-136, see Historical and Statutory Notes following § 47-3001.



## CHAPTER 31. CONSUMER TRANSMISSION OF MONEY ACT. [REPEALED].

Sec.

47-3101 to 47-3117. [Repealed].

## §§ 47-3101 Definitions. [Repealed].

Repealed.

(1973 Ed., § 47-3201; Oct. 4, 1978, D.C. Law 2-114, § 2, 25 DCR 1985; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; July 18, 2000, D.C. Law 13-140, § 28, 47 DCR 3431.)

**Prior Codifications.** — 1981 Ed., § 47-3101.

1973 Ed., § 47-3201.

**Legislative history of Law 2-114.** — Law 2-114, the “District of Columbia Consumer Transmission of Money Act of 1978,” was introduced in Council and assigned Bill No. 2-210, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on June 13, 1978 and June 27, 1978, respectively. Signed by the Mayor on July 21, 1978, it was assigned Act No. 2-242 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 13-140.** — Law 13-140, the “Money Transmitters Act of 2000,” was introduced in Council and assigned Bill No. 13-367, which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on March 7, 2000, and April 4, 2000, respectively. Signed by the Mayor on April 20, 2000, it was assigned Act No. 13-322 and transmitted to both Houses of Congress for its review. D.C. Law 13-140 became effective on July 18, 2000.

**Delegation of Authority.** — Delegation of authority pursuant to Law 2-114, see Mayor’s Order 86-127, August 8, 1986.

## § 47-3102. License required. [Repealed].

Repealed.

(1973 Ed., § 47-3202; Oct. 4, 1978, D.C. Law 2-114, § 3, 25 DCR 1985; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-261, § 2003(pp)(39), 46 DCR 3142; July 18, 2000, D.C. Law 13-140, § 28, 47 DCR 3431.)

**Prior Codifications.** — 1981 Ed., § 47-3102.

1973 Ed., § 47-3202.

**Legislative history of Law 2-114.** — For legislative history of D.C. Law 2-114, see Historical and Statutory Notes following § 47-3101.

**Legislative history of Law 12-261.** — Law 12-261, the “Second Omnibus Regulatory Reform Amendment Act of 1998,” was introduced

in Council and assigned Bill No. 12-615, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1998, and December 15, 1998, respectively. Signed by the Mayor on December 31, 1998, it was assigned Act No. 12-615 and transmitted to both Houses of Congress for its review. D.C. Law 12-261 became effective on April 20, 1999.

## § 47-3103. Exemptions. [Repealed].

Repealed.

(1973 Ed., § 47-3203; Oct. 4, 1978, D.C. Law 2-114, § 4, 25 DCR 1985; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; July 18, 2000, D.C. Law 13-140, § 28, 47 DCR 3431.)

**Prior Codifications.** — 1981 Ed., § 47-3103. legislative history of D.C. Law 2-114, see Historical and Statutory Notes following § 47-3101.  
1973 Ed., § 47-3203.  
**Legislative history of Law 2-114.** — For

§ 47-3104. **Qualifications. [Repealed].**

Repealed.

(1973 Ed., § 47-3204; Oct. 4, 1978, D.C. Law 2-114, § 5, 25 DCR 1985; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; July 18, 2000, D.C. Law 13-140, § 28, 47 DCR 3431.)

**Prior Codifications.** — 1981 Ed., § 47-3104. legislative history of D.C. Law 2-114, see Historical and Statutory Notes following § 47-3101.  
1973 Ed., § 47-3204.  
**Legislative history of Law 2-114.** — For

§ 47-3105. **Applications. [Repealed].**

Repealed.

(1973 Ed., § 47-3205; Oct. 4, 1978, D.C. Law 2-114, § 6, 25 DCR 1985; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; July 18, 2000, D.C. Law 13-140, § 28, 47 DCR 3431.)

**Prior Codifications.** — 1981 Ed., § 47-3105. legislative history of D.C. Law 2-114, see Historical and Statutory Notes following § 47-3101.  
1973 Ed., § 47-3205.  
**Legislative history of Law 2-114.** — For

§ 47-3106. **Accompanying fee, statements and bond. [Repealed].**

Repealed.

(1973 Ed., § 47-3206; Oct. 4, 1978, D.C. Law 2-114, § 7, 25 DCR 1985; Dec. 21, 1979, D.C. Law 3-41, § 2(a), (b), 26 DCR 2078; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; July 18, 2000, D.C. Law 13-140, § 28, 47 DCR 3431.)

**Prior Codifications.** — 1981 Ed., § 47-3106. legislative history of D.C. Law 2-114, see Historical and Statutory Notes following § 47-3101.  
1973 Ed., § 47-3206.  
**Legislative history of Law 2-114.** — For legislative history of D.C. Law 2-114, see Historical and Statutory Notes following § 47-3101.  
**Legislative history of Law 3-41.** — Law 3-41, the "District of Columbia Consumer Transmission of Money Act of 1978 Amendments of 1979," was introduced in Council and assigned Bill No. 3-143, which was referred to the Committee on Public Services and Consumer Affairs. The Bill was adopted on first and second readings on September 25, 1979 and October 9, 1979, respectively. Signed by the Mayor on October 30, 1979, it was assigned Act No. 3-113 and transmitted to both Houses of Congress for its review.

§ 47-3107. **Granting of license; investigations. [Repealed].**

Repealed.



(1973 Ed., § 47-3207; Oct. 4, 1978, D.C. Law 2-114, § 8, 25 DCR 1985; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; July 18, 2000, D.C. Law 13-140, § 28, 47 DCR 3431.)

**Prior Codifications.** — 1981 Ed., § 47-3107. legislative history of D.C. Law 2-114, see Historical and Statutory Notes following § 47-3101.

1973 Ed., § 47-3207.

**Legislative history of Law 2-114.** — For

## § 47-3108. Maintenance of bond or securities. [Repealed].

Repealed.

(1973 Ed., § 47-3208; Oct. 4, 1978, D.C. Law 2-114, § 9, 25 DCR 1985; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; July 18, 2000, D.C. Law 13-140, § 28, 47 DCR 3431.)

**Prior Codifications.** — 1981 Ed., § 47-3108. legislative history of D.C. Law 2-114, see Historical and Statutory Notes following § 47-3101.

1973 Ed., § 47-3208.

**Legislative history of Law 2-114.** — For

## § 47-3109. Annual license fee. [Repealed].

Repealed.

(1973 Ed., § 47-3209; Oct. 4, 1978, D.C. Law 2-114, § 10, 25 DCR 1985; Dec. 21, 1979, D.C. Law 3-41, § 2(c), 26 DCR 2078; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; July 18, 2000, D.C. Law 13-140, § 28, 47 DCR 3431.)

**Prior Codifications.** — 1981 Ed., § 47-3109. torical and Statutory Notes following § 47-3101.

1973 Ed., § 47-3209.

**Legislative history of Law 2-114.** — For legislative history of D.C. Law 2-114, see Historical and Statutory Notes following § 47-3106.

## § 47-3110. Agent. [Repealed].

Repealed.

(1973 Ed., § 47-3210; Oct. 4, 1978, D.C. Law 2-114, § 11, 25 DCR 1985; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; July 18, 2000, D.C. Law 13-140, § 28, 47 DCR 3431.)

**Prior Codifications.** — 1981 Ed., § 47-3110. legislative history of D.C. Law 2-114, see Historical and Statutory Notes following § 47-3101.

1973 Ed., § 47-3210.

**Legislative history of Law 2-114.** — For

## § 47-3111. Liability of licensees. [Repealed].

Repealed.

(1973 Ed., § 47-3211; Oct. 4, 1978, D.C. Law 2-114, § 12, 25 DCR 1985;

enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; July 18, 2000, D.C. Law 13-140, § 28, 47 DCR 3431.)

**Prior Codifications.** — 1981 Ed., § 47-3111. legislative history of D.C. Law 2-114, see Historical and Statutory Notes following § 47-3101.  
1973 Ed., § 47-3211.

**Legislative history of Law 2-114.** — For

## § 47-3112. Disclosure of responsibility. [Repealed].

Repealed.

(1973 Ed., § 47-3212; Oct. 4, 1978, D.C. Law 2-114, § 13, 25 DCR 1985; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; July 18, 2000, D.C. Law 13-140, § 28, 47 DCR 3431.)

**Prior Codifications.** — 1981 Ed., § 47-3112. legislative history of D.C. Law 2-114, see Historical and Statutory Notes following § 47-3101.  
1973 Ed., § 47-3212.

**Legislative history of Law 2-114.** — For

## § 47-3113. Maximum charge. [Repealed].

Repealed.

(1973 Ed., § 47-3213; Oct. 4, 1978, D.C. Law 2-114, § 14, 25 DCR 1985; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; May 12, 1998, D.C. Law 12-111, § 25(b), 45 DCR 1782; July 18, 2000, D.C. Law 13-140, § 28, 47 DCR 3431.)

**Prior Codifications.** — 1981 Ed., § 47-3113. introduced in Council and assigned Bill No. 12-338. The Bill was adopted on first and second readings on January 6, 1998, and February 3, 1998, respectively. Signed by the Mayor on February 24, 1998, it was assigned Act No. 12-300 and transmitted to both Houses of Congress for its review. Law 12-111 became effective on May 12, 1998.

1973 Ed., § 47-3213.  
**Legislative history of Law 2-114.** — For legislative history of D.C. Law 2-114, see Historical and Statutory Notes following § 47-3101.

**Legislative history of Law 12-111.** — Law 12-111, the “Check Cashers Act of 1998,” was

## § 47-3114. Revocation of license investigations. [Repealed].

Repealed.

(1973 Ed., § 47-3214; Oct. 4, 1978, D.C. Law 2-114, § 15, 25 DCR 1985; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; July 18, 2000, D.C. Law 13-140, § 28, 47 DCR 3431.)

**Prior Codifications.** — 1981 Ed., § 47-3114. legislative history of D.C. Law 2-114, see Historical and Statutory Notes following § 47-3101.  
1973 Ed., § 47-3214.

**Legislative history of Law 2-114.** — For



## § 47-3115. Hearings. [Repealed].

Repealed.

(1973 Ed., § 47-3215; Oct. 4, 1978, D.C. Law 2-114, § 16, 25 DCR 1985; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; July 18, 2000, D.C. Law 13-140, § 28, 47 DCR 3431.)

**Prior Codifications.** — 1981 Ed., § 47-3115. legislative history of D.C. Law 2-114, see Historical and Statutory Notes following § 47-3101.  
1973 Ed., § 47-3215.

**Legislative history of Law 2-114.** — For

## § 47-3116. Penalties. [Repealed].

Repealed.

(1973 Ed., § 47-3216; Oct. 4, 1978, D.C. Law 2-114, § 17, 25 DCR 1985; Oct. 5, 1985, D.C. Law 6-42, § 413, 32 DCR 4450; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; July 18, 2000, D.C. Law 13-140, § 28, 47 DCR 3431.)

**Prior Codifications.** — 1981 Ed., § 47-3116. legislative history of D.C. Law 2-114, see Historical and Statutory Notes following § 47-3101.  
1973 Ed., § 47-3216.

**Legislative history of Law 2-114.** — For legislative history of D.C. Law 2-114, see Historical and Statutory Notes following § 47-3101.

**Legislative history of Law 6-42.** — Law 6-42, the “Department of Consumer and Regulatory Affairs Civil Infractions Act of 1985,” was introduced in Council and assigned Bill No. 6-187, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on June 25, 1985, and July 9, 1985, respectively. Signed by the Mayor on July 16, 1985, it was assigned Act No. 6-60 and transmitted to both Houses of Congress for its review.

## § 47-3117. Severability. [Repealed].

Repealed.

(1973 Ed., § 47-3217; Oct. 4, 1978, D.C. Law 2-114, § 18, 25 DCR 1985; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; July 18, 2000, D.C. Law 13-140, § 28, 47 DCR 3431.)

**Prior Codifications.** — 1981 Ed., § 47-3117. legislative history of D.C. Law 2-114, see Historical and Statutory Notes following § 47-3101.  
1973 Ed., § 47-3217.

**Legislative history of Law 2-114.** — For

CHAPTER 31A. USE OF CONSUMER IDENTIFICATION INFORMATION.

Sec.

47-3151. Definitions.

47-3152. Use of credit card information in connection with payment by check.

47-3153. Use of consumer identification infor-

Sec.

mation in connection with credit card payments.

47-3154. Penalties.

§ 47-3151. Definitions.

For the purposes of this chapter, the term:

(1) "Drawer" means an individual who makes or signs a check or other draft, but not including a credit or debit card sales draft.

(2) "Sale" means any:

(A) Offer, or attempt to sell merchandise, real property, or intangibles for cash or credit; or

(B) Service or offer for service which relates to any person, building, or equipment.

(3) "Service" means any:

(A) Building repair or improvement service;

(B) Subprofessional service;

(C) Repair of a motor vehicle, home appliance, or other similar commodity; or

(D) Repair, installation, or other servicing of any plumbing, heating, electrical, or mechanical device.

**Prior Codifications.** — 1981 Ed., § 47-3151.

**Legislative history of Law 9-69.** — Law 9-69, the "Use of Consumer Identification Information Act of 1991," was introduced in Council and assigned Bill No. 9-111, which was referred to the Committee on Consumer and Regulatory

Affairs. The Bill was adopted on first and second readings on November 5, 1991, and December 3, 1991, respectively. Signed by the Mayor on December 20, 1991, it was assigned Act No. 9-120 and transmitted to both Houses of Congress for its review.

(Mar. 11, 1992, D.C. Law 9-69, § 2, 39 DCR 16; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

§ 47-3152. Use of credit card information in connection with payment by check.

(a) No person shall imprint the information contained on a drawer's credit card or other form of identification on the face or on the back of a check used as payment for goods or services, nor shall any person record in any manner the number of a drawer's credit card or other form of identification as a condition to accepting a check as payment for the sale of goods or services. Nothing herein shall be deemed to prohibit a person from requesting, but not requiring, that a drawer voluntarily display a credit card or other form of identification as an additional form of identification, provided that the only information recorded concerning the credit card or other form of identification is the type of credit card or other form of identification so displayed and its expiration date where applicable.



(b) Where a second form of identification is requested, the merchant must inform the purchaser of the range of acceptable second forms of identification and post a listing of the range of acceptable second forms of identification in at least one location clearly visible to the purchaser within the merchant's place of business.

(Mar. 11, 1992, D.C. Law 9-69, § 3, 39 DCR 16; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 29, 1998, D.C. Law 12-88, § 2, 45 DCR 1230.)

**Section references.** — This section is referred to in § 47-3154.

**Prior Codifications.** — 1981 Ed., § 47-3152.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2 of Check Identification Fraud Prevention Temporary Amendment Act of 1996 (D.C. Law 11-231, April 9, 1997, law notification 44 DCR 2589).

For temporary (225 day) amendment of section, see § 2 of Check Identification Fraud Prevention Temporary Amendment Act of 1997 (D.C. Law 12-63, March 20, 1998, law notification 45 DCR 2098).

**Emergency legislation.** — For temporary amendment of section, see § 2 of the Check Identification Fraud Prevention Emergency Amendment Act of 1996 (D.C. Act 11-451, December 10, 1996, 44 DCR 120).

For temporary amendment of section, see § 2 of the Check Identification Fraud Prevention Congressional Review Emergency Amendment

Act of 1997 (D.C. Act 12-14, March 3, 1997, 44 DCR 1749), see § 2 of the Check Identification Fraud Prevention Congressional Review Emergency Amendment Act of 1997 (D.C. Act 12-186, October 30, 1997, 44 DCR 6964), and see § 2 of the Check Identification Fraud Prevention Congressional Recess Emergency Amendment Act of 1998 (D.C. Act 12-258, February 19, 1998, 45 DCR 1228).

**Legislative history of Law 9-69.** — For legislative history of D.C. Law 9-69, see Historical and Statutory Notes following § 47-3151.

**Legislative history of Law 12-88.** — Law 12-88, the "Check Identification Fraud Prevention Amendment Act of 1998," was introduced in Council and assigned Bill No. 12-22, which was referred to the Committee on the Judiciary. The Bill was adopted on first and second readings on December 4, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 22, 1998, it was assigned Act No. 12-259 and transmitted to both Houses of Congress for its review. D.C. Law 12-88 became effective on April 29, 1998.

## § 47-3153. Use of consumer identification information in connection with credit card payments.

(a) Except as provided in subsection (b) of this section, no person shall, as a condition of accepting a credit card as payment for a sale of goods or services, request or record the address or telephone number of a credit card holder on the credit card transaction form.

(b) A person may record the address or telephone number of a credit card holder if the information is necessary for the shipment, delivery, or installation of consumer goods, or special orders of consumer goods or services.

(Mar. 11, 1992, D.C. Law 9-69, § 4, 39 DCR 16; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Section references.** — This section is referred to in § 47-3154.

**Prior Codifications.** — 1981 Ed., § 47-3153.

**Legislative history of Law 9-69.** — For legislative history of D.C. Law 9-69, see Historical and Statutory Notes following § 47-3151.

## § 47-3154. Penalties.

(a) Any person aggrieved by a violation of § 47-3152 or § 47-3153 shall be

entitled to institute an action to recover actual damages or \$500, whichever is greater, and for injunctive relief against any person who has engaged in any act in violation of this chapter.

(b) In the event the aggrieved party prevails, reasonable attorney's fees and court costs may be awarded in addition to any damages awarded.

(c) This section shall not be construed to impose liability on any employee or agent of an employer when that employee or agent has acted in accordance with the direction of his or her employer.

(Mar. 11, 1992, D.C. Law 9-69, § 5, 39 DCR 16; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3154. legislative history of D.C. Law 9-69, see Historical and Statutory Notes following § 47-3151.

**Legislative history of Law 9-69.** — For



## CHAPTER 32. HOTEL OCCUPANCY TAX. [REPEALED].

*Subchapter I. General Provisions**Subchapter III. Effective Dates*

Sec.

47-3201 to 47-3207. [Repealed].

Sec.

47-3221. [Repealed].

*Subchapter II. Mayor's Reports*

47-3211 to 47-3216. [Repealed].

*Subchapter I. General Provisions.*

## § 47-3201. Definitions. [Repealed].

Repealed.

(1973 Ed., § 47-3101; Mar. 16, 1978, D.C. Law 2-58, § 101, 24 DCR 5765; Aug. 14, 1982, D.C. Law 4-137, § 2, 29 DCR 2757; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 12, 1998, D.C. Law 12-142, § 3(i), 45 DCR 4826.)

**Prior Codifications.** — 1981 Ed., § 47-3201.

1973 Ed., § 47-3101.

**Legislative history of Law 2-58.** — Law 2-58, the “Hotel Occupancy and Surtax on Corporations and Unincorporated Business Tax Act of 1977,” was introduced in Council and assigned Bill No. 2-169, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on September 13, 1977 and October 11, 1977, respectively. Signed by the Mayor on December 30, 1977, it was assigned Act No. 2-127 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 4-137.** — For legislative history of D.C. Law 4-137, see Historical and Statutory Notes following § 47-3207.

**Legislative history of Law 12-142.** — Law 12-142, the “Washington Convention Center

Authority Financing Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-379, which was referred to the Committee on Economic Development and the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 2, 1998, and June 16, 1998, respectively. Signed by the Mayor on June 23, 1998, it was assigned Act No. 12-402 and transmitted to both Houses of Congress for its review. The legislation became effective on August 12, 1998, the date that the President of the United States signed P.L. 105-227, which waived the 30-day Congressional review period for this law.

**Effective date.** — Section 6(b) of D.C. Law 4-137 provided that the provisions of the act shall take effect on the first day of the first month which begins more than 30 days after August 14, 1982, or on October 1, 1982, whichever is later.

## § 47-3202. Imposition and rate of tax. [Repealed].

Repealed.

(1973 Ed., § 47-3102; Mar. 16, 1978, D.C. Law 2-58, § 102, 24 DCR 5765; Aug. 14, 1982, D.C. Law 4-137, § 3, 29 DCR 2757; July 26, 1989, D.C. Law 8-17, § 10(a), 36 DCR 4160; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 12, 1998, D.C. Law 12-142, § 3(i), 45 DCR 4826.)

**Prior Codifications.** — 1981 Ed., § 47-3202.

1973 Ed., § 47-3102.

**Legislative history of Law 2-58.** — For legislative history of D.C. Law 2-58, see Historical and Statutory Notes following § 47-3201.

**Legislative history of Law 4-137.** — For legislative history of D.C. Law 4-137, see Historical and Statutory Notes following § 47-3207.

**Legislative history of Law 8-17.** — Law 8-17, the “Revenue Amendment Act of 1989,”

was introduced in Council and assigned Bill No. 8-224, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 2, 1989 and May 16, 1989, respectively. Signed by the Mayor on May 26, 1989, it was assigned Act No. 8-34 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 12-142.** — For

legislative history of D.C. Law 12-142, see Historical and Statutory Notes following § 47-3201.

**Effective date.** — Section 6(b) of D.C. Law 4-137 provided that the provisions of the act shall take effect on the first day of the first month which begins more than 30 days after August 14, 1982, or on October 1, 1982, whichever is later.

## § 47-3203. Exemptions. [Repealed].

Repealed.

(1973 Ed., § 47-3103; Mar. 16, 1978, D.C. Law 2-58, § 103, 24 DCR 5765; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 12, 1998, D.C. Law 12-142, § 3(i), 45 DCR 4826.)

**Prior Codifications.** — 1981 Ed., § 47-3203.

1973 Ed., § 47-3103.

**Legislative history of Law 2-58.** — For legislative history of D.C. Law 2-58, see Historical and Statutory Notes following § 47-3201.

**Legislative history of Law 12-142.** — For legislative history of D.C. Law 12-142, see Historical and Statutory Notes following § 47-3201.

## § 47-3204. Returns and payment of tax. [Repealed].

Repealed.

(1973 Ed., § 47-3104; Mar. 16, 1978, D.C. Law 2-58, § 104, 24 DCR 5765; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 12, 1998, D.C. Law 12-142, § 3(i), 45 DCR 4826.)

**Prior Codifications.** — 1981 Ed., § 47-3204.

1973 Ed., § 47-3104.

**Legislative history of Law 2-58.** — For legislative history of D.C. Law 2-58, see Historical and Statutory Notes following § 47-3201.

**Legislative history of Law 12-142.** — For legislative history of D.C. Law 12-142, see Historical and Statutory Notes following § 47-3201.

## § 47-3205. Incorporation of certain existing D.C. Code sections. [Repealed].

Repealed.

(1973 Ed., § 47-3105; Mar. 16, 1978, D.C. Law 2-58, § 105, 24 DCR 5765; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 12, 1998, D.C. Law 12-142, § 3(i), 45 DCR 4826.)

**Prior Codifications.** — 1981 Ed., § 47-3205.

1973 Ed., § 47-3105.

**Legislative history of Law 2-58.** — For legislative history of D.C. Law 2-58, see Historical and Statutory Notes following § 47-3201.

**Legislative history of Law 12-142.** — For legislative history of D.C. Law 12-142, see Historical and Statutory Notes following § 47-3201.



## § 47-3206. Washington Convention Center Authority Fund. [Repealed].

Repealed.

(1973 Ed., § 47-3106; Mar. 16, 1978, D.C. Law 2-58, § 106, 24 DCR 5765; Aug. 14, 1982, D.C. Law 4-137, § 4, 29 DCR 2757; July 26, 1989, D.C. Law 8-17, § 10(b), 36 DCR 4160; Feb. 5, 1994, D.C. Law 10-68, § 49, 40 DCR 6311; Sept. 28, 1994, D.C. Law 10-188, § 304, 41 DCR 5333; Sept. 26, 1995, D.C. Law 11-52, § 115, 42 DCR 3684; Apr. 18, 1996, D.C. Law 11-110, § 58, 43 DCR 530; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 12, 1998, D.C. Law 12-142, § 3(i), 45 DCR 4826.)

**Prior Codifications.** — 1981 Ed., § 47-3206.

1973 Ed., § 47-3106.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 109 of Multiyear Budget Spending Reduction and Support Temporary Act of 1995 (D.C. Law 10-253, March 23, 1995, law notification 42 DCR 1652).

**Legislative history of Law 2-58.** — For legislative history of D.C. Law 2-58, see Historical and Statutory Notes following § 47-3201.

**Legislative history of Law 4-137.** — For legislative history of D.C. Law 4-137, see Historical and Statutory Notes following § 47-3207.

**Legislative history of Law 8-17.** — For legislative history of D.C. Law 8-17, see Historical and Statutory Notes following § 47-3202.

**Legislative history of Law 10-68.** — Law 10-68, the "Technical Amendments Act of 1993," was introduced in Council and assigned Bill No. 10-166, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 29, 1993, and July 13, 1993, respectively. Signed by the Mayor on August 23, 1993, it was assigned Act No. 10-107 and transmitted to both Houses of Congress for its review. D.C. Law 10-68 became effective on February 5, 1994.

**Legislative history of Law 10-188.** — Law 10-188, the "Washington Convention Center Authority Act of 1994," was introduced in Council and assigned Bill No. 10-527, which was referred to the Committee on Economic Development and Sequential to the Committee of the Whole. The Bill was adopted on first and second readings on July 5, 1994, and July 19, 1994, respectively. Signed by the Mayor on August 2, 1994, it was assigned Act No. 10-314 and transmitted to both Houses of Congress for its review. D.C. Law 10-188 became effective on September 28, 1994.

**Legislative history of Law 11-52.** — Law 11-52, the "Omnibus Budget Support Act of 1995," was introduced in Council and assigned

Bill No. 11-218, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on April 19, 1995, and June 6, 1995, respectively. Signed by the Mayor on July 13, 1995, it was assigned Act No. 11-94 and transmitted to both Houses of Congress for its review. D.C. Law 11-52 became effective on September 26, 1995.

**Legislative history of Law 11-110.** — Law 11-110, the "Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-485, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 5, 1995, and January 4, 1996, respectively. Signed by the Mayor on January 26, 1996, it was assigned Act No. 11-199 and transmitted to both Houses of Congress for its review. D.C. Law 11-110 became effective on April 18, 1996.

**Legislative history of Law 12-142.** — For legislative history of D.C. Law 12-142, see Historical and Statutory Notes following § 47-3201.

**Effective date.** — Section 6(b) of D.C. Law 4-137 provided that the provisions of the act shall take effect on the first day of the first month which begins more than 30 days after August 14, 1982, or on October 1, 1982, whichever is later.

**Editor's notes.** — Audit of accounts and operation of Authority: Section 305(a) of D.C. Law 10-188 provided that "on or before July 1 of each year, the District of Columbia Auditor, pursuant to the Auditor's duties under § 47-117(b), shall audit the accounts and operation of the Authority and make a specific finding of the sufficiency of the projected revenues from the taxes imposed pursuant to §§ 301, 302, 303, and 304 to meet the projected expenditures and reserve requirements of the Authority for the upcoming fiscal year."

Section 305(b) of D.C. Law 10-188 provided: "If the audit conducted pursuant to subsection (a) of this section indicates that projected revenues from the taxes imposed pursuant to §§ 301, 302, 303, and 304 are insufficient to

meet projected expenditures and reserve requirements of the Authority for the upcoming fiscal year, the Mayor shall impose a surtax, to become effective on or before October 1 of the upcoming year, on each of those taxes dedicated to the Authority excluding the tax on sales of restaurant meals and alcoholic beverages, in an amount equal to the pro rata share of the difference between (1) the sum of the projected

expenditure and reserve requirements and (2) the projected revenues. The pro rata share shall be determined based on the pro rata estimated contribution of each tax to the total estimated tax revenue for the particular year as contained in the multiyear financial plan submitted pursuant to § 9-807(g) [§ 10-1202.06(g), 2001 Ed.].”

## § 47-3207. Rules. [Repealed].

Repealed.

(Mar. 16, 1978, D.C. Law 2-58, § 107, as added Aug. 14, 1982, D.C. Law 4-137, § 5, 29 DCR 2757; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 12, 1998, D.C. Law 12-142, § 3(i), 45 DCR 4826.)

**Prior Codifications.** — 1981 Ed., § 47-3207.

**Legislative history of Law 2-58.** — For legislative history of D.C. Law 2-58, see Historical and Statutory Notes following § 47-3201.

**Legislative history of Law 4-137.** — Law 4-137, the “Hotel Occupancy Tax Increase Act of 1982,” was introduced in Council and assigned Bill No. 4-394, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 25, 1982 and June 8, 1982, respectively. Signed by the Mayor on June 21, 1982, it was assigned

Act No. 4-203 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 12-142.** — For legislative history of D.C. Law 12-142, see Historical and Statutory Notes following § 47-3201.

**Effective date.** — Section 6(b) of D.C. Law 4-137 provided that the provisions of the act shall take effect on the first day of the first month which begins more than 30 days after August 14, 1982, or on October 1, 1982, whichever is later.

## *Subchapter II. Mayor’s Reports.*

## § 47-3211. Required; contents generally. [Repealed].

Repealed.

(1973 Ed., § 47-3107; Mar. 16, 1978, D.C. Law 2-58, § 301, 24 DCR 5765; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 12, 1998, D.C. Law 12-142, § 3(i), 45 DCR 4826.)

**Prior Codifications.** — 1981 Ed., § 47-3211.

1973 Ed., § 47-3107.

**Legislative history of Law 2-58.** — For legislative history of D.C. Law 2-58, see Historical and Statutory Notes following § 47-3201.

**Legislative history of Law 12-142.** — For legislative history of D.C. Law 12-142, see Historical and Statutory Notes following § 47-3201.

## § 47-3212. Contents of annual revenue data estimates and projections. [Repealed].

Repealed.

(1973 Ed., § 47-3108; Mar. 16, 1978, D.C. Law 2-58, § 302, 24 DCR 5765; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 12, 1998, D.C. Law 12-142, § 3(i), 45 DCR 4826.)



**Prior Codifications.** — 1981 Ed., § 47-3212.

1973 Ed., § 47-3108.

**Legislative history of Law 2-58.** — For legislative history of D.C. Law 2-58, see Historical and Statutory Notes following § 47-3201.

**Legislative history of Law 12-142.** — For legislative history of D.C. Law 12-142, see Historical and Statutory Notes following § 47-3201.

## § 47-3213. Analysis of revenue and cost data and recommendations. [Repealed].

Repealed.

(1973 Ed., § 47-3109; Mar. 16, 1978, D.C. Law 2-58, § 303, 24 DCR 5765; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 12, 1998, D.C. Law 12-142, § 3(i), 45 DCR 4826.)

**Prior Codifications.** — 1981 Ed., § 47-3213.

1973 Ed., § 47-3109.

**Legislative history of Law 2-58.** — For legislative history of D.C. Law 2-58, see Historical and Statutory Notes following § 47-3201.

**Legislative history of Law 12-142.** — For legislative history of D.C. Law 12-142, see Historical and Statutory Notes following § 47-3201.

## § 47-3214. Adoption of tax and rate structures. [Repealed].

Repealed.

(1973 Ed., § 47-3110; Mar. 16, 1978, D.C. Law 2-58, § 304, 24 DCR 5765; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 12, 1998, D.C. Law 12-142, § 3(i), 45 DCR 4826.)

**Prior Codifications.** — 1981 Ed., § 47-3214.

1973 Ed., § 47-3110.

**Legislative history of Law 2-58.** — For legislative history of D.C. Law 2-58, see Historical and Statutory Notes following § 47-3201.

**Legislative history of Law 12-142.** — For legislative history of D.C. Law 12-142, see Historical and Statutory Notes following § 47-3201.

## § 47-3215. Limit on expenditures for civic center. [Repealed].

Repealed.

(1973 Ed., § 47-3111; Mar. 16, 1978, D.C. Law 2-58, § 305, 24 DCR 5765; Sept. 26, 1984, D.C. Law 5-113, § 301, 31 DCR 3974; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 12, 1998, D.C. Law 12-142, § 3(i), 45 DCR 4826.)

**Prior Codifications.** — 1981 Ed., § 47-3215.

1973 Ed., § 47-3111.

**Legislative history of Law 2-58.** — For legislative history of D.C. Law 2-58, see Historical and Statutory Notes following § 47-3201.

**Legislative history of Law 5-113.** — Law 5-113, the "District of Columbia Revenue Act of

1984," was introduced in Council and assigned Bill No. 5-370, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 26, 1984 and July 10, 1984, respectively. Signed by the Mayor on July 13, 1984, it was assigned Act No. 5-164 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 12-142.** — For legislative history of D.C. Law 12-142, see Historical and Statutory Notes following § 47-3201.

**Editor's notes.** — Mayor authorized to issue

rules: Section 901 of D.C. Law 5-113 provided that the Mayor shall issue rules to implement the provisions of the act pursuant to subchapter I of Chapter 5 of Title 2.

## § 47-3216. Jobs. [Repealed].

Repealed.

(1973 Ed., § 47-3112; Mar. 16, 1978, D.C. Law 2-58, § 306, 24 DCR 5765; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 12, 1998, D.C. Law 12-142, § 3(i), 45 DCR 4826.)

**Prior Codifications.** — 1981 Ed., § 47-3216.

1973 Ed., § 47-3112.

**Legislative history of Law 2-58.** — For legislative history of D.C. Law 2-58, see Historical and Statutory Notes following § 47-3201.

**Legislative history of Law 12-142.** — For legislative history of D.C. Law 12-142, see Historical and Statutory Notes following § 47-3201.

## *Subchapter III. Effective Dates.*

## § 47-3221. Effective date of subchapter I. [Repealed].

Repealed.

(1973 Ed., § 47-3113; Mar. 16, 1978, D.C. Law 2-58, § 401, 24 DCR 5765; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 12, 1998, D.C. Law 12-142, § 3(i), 45 DCR 4826.)

**Prior Codifications.** — 1981 Ed., § 47-3221.

1973 Ed., § 47-3113.

**Legislative history of Law 2-58.** — For legislative history of D.C. Law 2-58, see Historical and Statutory Notes following § 47-3201.

**Legislative history of Law 12-142.** — For legislative history of D.C. Law 12-142, see Historical and Statutory Notes following § 47-3201.

**Editor's notes.** — Pub. L. 105-227, § 2, Aug. 12, 1998, 112 Stat. 1515, provided: "Notwithstanding section 602(c)(1) of the District of Columbia Home Rule Act, the Washington Convention Center Authority Financing Amendment Act of 1998 (D.C. 12-402) shall take effect on the date of the enactment of this Act."



## CHAPTER 33. SUPERIOR COURT, TAX DIVISION.

Sec.

- 47-3301. Tax appeals, definitions.  
 47-3302. Retirement of Judge of District of Columbia Tax Court.  
 47-3303. Appeal from assessment; hearing and decision.  
 47-3304. Review by Court; finality of decision; modification or reversal.

Sec.

- 47-3305. Appeals of real estate assessments.  
 47-3306. Refund of erroneous collections.  
 47-3307. Certain suits forbidden.  
 47-3308. Manner of serving notices.  
 47-3309. Reference by Mayor to the Superior Court.  
 47-3310. Overpayments; refund; appeal.

## § 47-3301. Tax appeals, definitions.

In the interpretation of this chapter, unless the context indicates a different meaning:

- (1) The term "tax" means the tax or taxes mentioned in this chapter.
- (2) The term "appeal" means the appeal provided in this chapter.
- (3) The term "Mayor" means the Mayor of the District of Columbia or his duly authorized representative or representatives.
- (4) The term "District" means the District of Columbia.
- (5) The term "person" includes any individual, firm, copartnership, joint venture, association, corporation (domestic or foreign), trust, estate, or receiver.
- (6) The term "Court" means the Superior Court of the District of Columbia, unless the context indicates otherwise.
- (7) The term "Assessor" means the Assessor of the District of Columbia.
- (8) Repealed.

(Aug. 17, 1937, 50 Stat. 692, ch. 690, title IX, § 1; May 16, 1938, 52 Stat. 370, ch. 223, § 8; July 29, 1970, 84 Stat. 579, Pub. L. 91-358, title I, § 161(a)(1); Apr. 30, 1988, D.C. Law 7-104, § 41(b), 35 DCR 147; Mar. 17, 1993, D.C. Law 9-241, § 6, 40 DCR 629; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 8, 2011, D.C. Law 18-363, § 3(g)(10), 58 DCR 963.)

**Prior Codifications.** — 1981 Ed., § 47-3301.

1973 Ed., § 47-2401.

**Effect of amendments.** — D.C. Law 18-363 repealed par. (8), which had read as follows: "(8) The term 'Board of Real Property Assessments and Appeals' means the Board of Real Property Assessments and Appeals of the District of Columbia."

**Legislative history of Law 7-104.** — Law 7-104, the "Technical Amendments Act of 1987," was introduced in Council and assigned Bill No. 7-346, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 24, 1987, and December 8, 1987, respectively. Signed by the Mayor on December 22, 1987, it was assigned Act No. 7-124 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 9-241.** — Law 9-241, the "Real Property Tax Assessment Appeal Process Revision Amendment Act of 1992," was introduced in Council and assigned Bill No. 9-199, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on December 1, 1992, and December 15, 1992, respectively. Signed by the Mayor on January 5, 1993, it was assigned Act No. 9-375 and transmitted to both Houses of Congress for its review. D.C. Law 9-241 became effective on March 17, 1993.

**Legislative history of Law 18-363.** — For history of Law 18-363, see notes under § 47-412.01.

**Editor's notes.** — Office of Assessor abolished: See Historical and Statutory Notes following § 47-413.

CASE NOTES

ANALYSIS

Board of Tax Appeals.  
Common law.  
Contesting voluntary tax payments.  
In general.  
Public interest groups.

**Board of Tax Appeals.**

The Board of Tax Appeals for the District of Columbia is not a "court" but it is an "administrative agency" to which a taxpayer seeking relief may appeal an alleged excessive assessment of the Board of Equalization and Review. D.C. Code 1940, §§ 47-2403, 47-2405. *Watrous v. District of Columbia*, 135 F.2d 654, 1943 U.S. App. LEXIS 3346 (1943).

The Board of Tax Appeals for the District of Columbia is an "administrative agency" established to furnish more efficient, speedy, and less expensive method of determining validity of assessments, and is "quasi judicial" in nature, but is not a "court". D.C. Code 1940, § 47-2401 et seq. *Lindner v. District of Columbia*, 32 A.2d 540, 1943 D.C. App. LEXIS 168 (Cr.App. 1943).

**Common law.**

The remedy before Board of Tax Appeals for District of Columbia, afforded an aggrieved taxpayer, is not exclusive of common law remedy. D.C. Code 1940, § 47-2401 et seq. *Lindner v. District of Columbia*, 32 A.2d 540, 1943 D.C. App. LEXIS 168 (Cr.App. 1943).

As to taxpayer paying voluntarily, act creating Board of Tax Appeals for District of Columbia created new right and the remedy provided by the act is exclusive, but, as to taxpayer paying involuntarily within commonlaw meaning, remedy before the board is cumulative and such taxpayer may elect between statutory remedy and common law remedy. D.C. Code 1940, § 47-2401 et seq. *Lindner v. District of Columbia*, 32 A.2d 540, 1943 D.C. App. LEXIS 168 (Cr.App. 1943).

Congress may provide an exclusive administrative remedy for recovery of illegally collected taxes, or abolish common-law right of action and substitute new statutory right, but, unless so declared expressly or impliedly, statutory remedy is "cumulative" of common law remedy. *Lindner v. District of Columbia*, 32 A.2d 540, 1943 D.C. App. LEXIS 168 (Cr.App. 1943).

**Contesting voluntary tax payments.**

A taxpayer may contest validity of tax voluntarily paid, which is a new right created by act establishing Board of Tax Appeals for District of Columbia, and remedy provided by the act is the only remedy for such right. D.C. Code 1940, § 47-2401 et seq. *Lindner v. District of Colum-*

*bia*, 32 A.2d 540, 1943 D.C. App. LEXIS 168 (Cr.App. 1943).

Prior to creation of Board of Tax Appeals for District of Columbia, taxpayer was subject to common-law rule prohibiting challenge of tax unless involuntarily paid, and a mere statement tax is being paid under protest does not make it an "involuntary payment". D.C. Code 1940, § 47-2401 et seq. *Lindner v. District of Columbia*, 32 A.2d 540, 1943 D.C. App. LEXIS 168 (Cr.App. 1943).

**In general.**

Requirement that petition contesting assessment of real property be filed within six months "after payment of the tax" applies to tax exempt property, and such six-month period runs from date of assessment. D.C. Code §§ 11-1101, 11-1201, 47-709, 47-801a(j), 47-801e, 47-2401 to 47-2407, 47-2403, 47-2405, 47-2413(c). *National Graduate University v. District of Columbia*, 346 A.2d 740, 1975 D.C. App. LEXIS 270 (1975).

The statutory remedy given aggrieved taxpayer is but "cumulative" unless it is entirely adequate for protection of existing rights. *Lindner v. District of Columbia*, 32 A.2d 540, 1943 D.C. App. LEXIS 168 (Cr.App. 1943).

**Public interest groups.**

Proposed electoral initiative, to create Office of Public Advocate for Assessments and Taxation (OPA) with authority to appear and advocate on behalf of interest of public and general taxpayers of District of Columbia in administrative tax assessment proceedings and to appeal tax assessments by mayor to superior court and Court of Appeals, did not impermissibly infringe on mayor's responsibility for assessment of taxable property in violation of Home Rule Act. D.C. Code 1981, §§ 1-1320(b)(1), 47-310(a)(5). *Hessey v. Burden*, 584 A.2d 1, 1990 D.C. App. LEXIS 296 (1990), remanded by 615 A.2d 562, 1992 D.C. App. LEXIS 280 (D.C. 1992).

Proposed electoral initiative, to create Office of Public Advocate for Assessments and Taxation (OPA) with authority to appear and advocate on behalf of interest of public and general taxpayers of District of Columbia in administrative tax assessment proceedings and to appeal tax assessments by mayor to superior court and Court of Appeals, would not impermissibly expand jurisdiction of courts in violation of Home Rule Act. D.C. Code 1981, §§ 1-233(a)(4), 1-1320(b)(1). *Hessey v. Burden*, 584 A.2d 1, 1990 D.C. App. LEXIS 296 (1990), remanded by 615 A.2d 562, 1992 D.C. App. LEXIS 280 (D.C. 1992).



## § 47-3302. Retirement of Judge of District of Columbia Tax Court.

(a) The judge of the District of Columbia Tax Court may hereafter retire (1) after having served as a judge of such Court for a period or periods aggregating 20 years or more, whether continuously or not, (2) after having served as a judge of such Court for a period or periods aggregating 10 years or more, whether continuously or not, and having attained the age of 70 years, or (3) after having a permanent disability that prevents performance of his duties, regardless of age or length of service. Such judge may retire for disability by furnishing to the Commissioner of the District of Columbia a certificate of disability signed by the Chief Judge of the United States District Court for the District of Columbia. The judge who retires under this section shall receive annually in monthly installments, during the remainder of his life, a sum equal to such proportion of the salary received by such judge at the time of such retirement as a total of his aggregate years of service bears to the period of 30 years, the same to be paid in the same manner as the salary of such judge. In no event shall the sum received by such judge hereunder be in excess of the salary of such judge at the time of such retirement. In computing the years of service under this section, service in the Board of Tax Appeals for the District of Columbia shall be included whether or not such service be continuous.

(b) The term “retire” as used in this section means and includes retirement, resignation, or failure of reappointment upon the expiration of the term of office of incumbent.

(Aug. 17, 1937, 50 Stat. 692, ch. 690, title IX, § 2; May 16, 1938, 52 Stat. 370, ch. 223, § 8; July 26, 1939, 53 Stat. 1108, ch. 367, title IV, § 5(a); Oct. 28, 1949, 63 Stat. 972, ch. 782, title XI, § 1106(a); July 10, 1952, 66 Stat. 547, ch. 649, § 5; July 11, 1955, 69 Stat. 290, ch. 302, § 3; July 2, 1956, 70 Stat. 485, ch. 494, § 1; Aug. 14, 1964, 78 Stat. 431, Pub. L. 88-426, § 306(i)(4); Oct. 17, 1968, 82 Stat. 1119, Pub. L. 90-579, § 3; Apr. 15, 1970, 84 Stat. 198, Pub. L. 91-231, § 6(c); July 29, 1970, 84 Stat. 579, Pub. L. 91-358, title I, § 161(a)(2); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 24, 2007, D.C. Law 16-305, § 73(h), 53 DCR 6198.)

**Prior Codifications.** — 1981 Ed., § 47-3302.

1973 Ed., § 47-2402.

**Effect of amendments.** — D.C. Law 16-305, in subsec. (a), substituted “a permanent

disability that prevents performance” for “become permanently disabled from performing”.

**Legislative history of Law 16-305.** — For Law 16-305, see notes following § 47-802.

## § 47-3303. Appeal from assessment; hearing and decision.

Any person aggrieved by any assessment by the District of any personal property, inheritance, estate, business privilege, income and franchise, sales, alcoholic beverage, gross receipts, gross earnings, insurance premiums, or motor-vehicle fuel tax or taxes, or penalties thereon, may within 6 months after the date of such assessment appeal from the assessment to the Superior Court of the District of Columbia; provided, that such person shall first pay such tax together with penalties and interest due thereon to the D.C.

Treasurer. The mailing to the taxpayer of a statement of taxes due shall be considered notice of assessment with respect to the taxes. The Court shall hear and determine all questions arising on appeal and shall make separate findings of fact and conclusions of law, and shall render its decision in writing. The Court may affirm, cancel, reduce, or increase the assessment.

(Aug. 17, 1937, 50 Stat. 692, ch. 690, title IX, § 3; May 16, 1938, 52 Stat. 371, ch. 223, § 8; July 26, 1939, 53 Stat. 1108, ch. 367, title IV, § 5(b); July 10, 1952, 66 Stat. 543, ch. 649, § 3(a); July 29, 1970, 84 Stat. 579, Pub. L. 91-358, title I, § 161(a)(3); July 24, 1982, D.C. Law 4-131, § 401, 29 DCR 2418; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Alcoholic beverage control, tax appeals, see § 25-910.

Board established, appeal of real property assessments, equalizations, valuations or classifications, see § 47-825.01.

Cigarette tax, appeals, see § 47-2413.

Crediting of tax refunds against delinquent taxes, notice, protest and appeals, see § 47-4431.

Gross sales tax, appeals, see § 47-2021.

Income and franchise taxes, right of aggrieved persons to judicial appeal, see § 47-1815.01.

Inheritance and estate taxes, authority of Mayor to determine tax, deficiencies and appeals, see § 47-3717.

Motor fuel tax, appeal and judicial review, see § 47-2319.

Real property and assessment tax, deferral, appeals by Bureau of National Affairs, see § 47-845.01.

Real property assessment and tax, new buildings, complaints and appeals, see § 47-830.

Real property tax, assessment of omitted properties, appeals, see § 47-831.

Real property tax, reassessment or redistribution, notice and appeal, see § 47-834.

Recordation tax on deeds, deficiency assessment appeal, see § 42-1114.

Taxation of personal property, appeal from assessment or denial of claim for refund, see § 47-1533.

Taxation of personal property, rolling stock, appeals, see § 47-1512.

Tax-exempt property, appeals from assessments, see § 47-1009.

Toll telecommunication service tax, authority of Mayor to determine tax, deficiencies and appeals, see § 47-3908.

Traffic regulation, excise tax appeals, see § 50-2201.22.

Transfer tax on real property, appeal and judicial review, see § 47-914.

**Section references.** — This section is referred to in §§ 47-811.02, 47-3305, 47-3310, 47-4312, and 47-4437.

**Prior Codifications.** — 1981 Ed., § 47-3303.

1973 Ed., § 47-2403.

**Legislative history of Law 4-131.** — Law 4-131, the "District of Columbia Tax Enforcement Act of 1982," was introduced in Council and assigned Bill No. 4-257, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 27, 1982, and May 11, 1982, respectively. Signed by the Mayor on June 1, 1982, it was assigned Act No. 4-196 and transmitted to both Houses of Congress for its review.

**New implementing regulations.** — The "District of Columbia Boat Titling Act of 1983" (D.C. Law 5-58, Mar. 14, 1984, 30 DCR 6293) provided that persons aggrieved by an assessment under § 4-b of Article 29 of the Police Regulations of the District of Columbia may appeal the assessment in the same manner as set forth in § 47-3303.

## CASE NOTES

### ANALYSIS

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### **Aggrieved person.**

Though inheritance tax of District of Columbia on certain dispositions of property was technically not assessed against legatee, assessment was "against him" for all practical purposes where he was required under terms of will to pay same, and he could appeal under statute as a "person aggrieved" by any assessment "against him." D.C. Code 1951, § 47-2403. *District of Columbia v. Fadeley*, 233 F.2d 667, 1956 U.S. App. LEXIS 3197 (C.A.D.C. 1956).

Where donee's grandsons did not pay District of Columbia inheritance tax which was required by will to be paid by residuary legatee, they were not entitled to appeal from the assessment. D.C. Code 1951, § 47-2403. *District of Columbia v. Fadeley*, 233 F.2d 667, 1956 U.S. App. LEXIS 3197 (C.A.D.C. 1956).

Where, at time when Court of Appeals of the District of Columbia dismissed executor's petition for review of decision of Tax Court of the District of Columbia affirming action of District Assessor in valuing shares of stock of deceased testator for inheritance tax purposes because testator's widow, to whom shares had been bequeathed, was the person aggrieved, rather than executor, it was too late for widow to file her own petition for review in the Tax Court because limitations had run against her, Court of Appeals would vacate its order of dismissal to permit widow to be substituted as petitioner in place of executor. D.C. Code 1951, §§ 47-1604, 47-1605, 47-2403; Fed. Rules Civ. Proc. rule 25, 18 U.S.C.; C.A.D.C. rule 28. *National Bank of Washington v. District of Columbia*, 226 F.2d 763, 1955 U.S. App. LEXIS 3114 (C.A.D.C. 1955).

Motion to dismiss petition for review of decision of District of Columbia Tax Court upon ground that petitioner was not party aggrieved within statute authorizing appeals from tax assessments by District of Columbia was of jurisdictional character and could be considered and decided notwithstanding fact that point was not raised in Tax Court. D.C. Code 1951, §§ 47-1601(a), 47-1604, 47-2402, 47-2403; § 47-2402, as amended by Act July 10, 1952, 66 Stat. 547. *National Bank of Washington v. District of Columbia*, 226 F.2d 763, 1955 U.S. App. LEXIS 3114 (C.A.D.C. 1955).

In absence of showing that inheritance tax assessment was not payable by beneficiary out of her distributive share, or that tax had not been paid by beneficiary out of her distributive share, interest of executor of estate was not directly and personally affected by alleged over-assessment, and executor was not "person aggrieved" within statute allowing appeal by per-

son aggrieved by alleged overassessment. D.C. Code 1951, §§ 47-1601(a), 47-1604, 47-2402, 47-2403; § 47-2402, as amended by Act July 10, 1952, 66 Stat. 547; D.C. Code 1951, §§ 47-1601(d), 47-1604, 47-1605, 47-1616. *National Bank of Washington v. District of Columbia*, 226 F.2d 763, 1955 U.S. App. LEXIS 3114 (C.A.D.C. 1955).

Generally an executor is not "person aggrieved" for purposes of an appeal to Tax Court unless either estate as whole is directly affected by decision appealed from, or unless his individual interests are directly and personally affected thereby. D.C. Code 1951, §§ 47-1601(a), 47-1604, 47-2402, 47-2403; § 47-2402, as amended by Act July 10, 1952, 66 Stat. 547. *National Bank of Washington v. District of Columbia*, 226 F.2d 763, 1955 U.S. App. LEXIS 3114 (C.A.D.C. 1955).

To determine whether person is "aggrieved" by tax assessment such as will permit suit in superior court, necessarily permits inquiry into and disposition of all relevant questions of fact in law. D.C. Code 1981, § 47-3303. *National Trust for Historic Preservation v. District of Columbia*, 498 A.2d 574, 1985 D.C. App. LEXIS 507 (1985).

### **Attorney fees.**

Since it was certain that as a result of successful taxpayer-litigants' efforts reduced tax bills were sent to identifiable taxpayers and since same records used for identification should reveal the precise amount of the savings, that is, difference between the first bill and the second, the benefits could be traced with more than "some accuracy" thus meeting one criterion for award of attorney fees under common fund or common benefit exception to general American rule which, in absence of statutory authorization, prohibits an award of attorney fees to a successful litigant. *District of Columbia v. Green*, 381 A.2d 578, 1977 D.C. App. LEXIS 273 (1977).

The fact that successful taxpayer-litigants against District of Columbia prevented the collection of illegally imposed taxes, rather than required their refund after collection, could not, in principle, defeat their recovery of attorney fees as successful litigants; thus, the common fund or common benefit exception to general American rule which, in absence of statutory authorization, prohibits an award of attorney fees to a successful litigant, could be applied on basis of tax savings realized by affected taxpayers and trial court could exercise jurisdiction over District of Columbia to require collection of appropriate fees from the benefitted taxpayers, unless such course of action was otherwise prohibited or unwarranted. *District of Columbia v. Green*, 381 A.2d 578, 1977 D.C. App. LEXIS 273 (1977).

Equities favored an award of reasonable counsel fees, if at all feasible, to successful taxpayer-litigants in actions against District of Columbia wherein the collection of illegally imposed taxes was prevented. *District of Columbia v. Green*, 381 A.2d 578, 1977 D.C. App. LEXIS 273 (1977).

#### Authority of court.

While a judge of the Tax Division may not arbitrarily reject expert testimony in a civil tax assessment case, the judge may adopt the rationale of one testifying expert over the other, or even disregard the conclusions of both. *Bender v. District of Columbia*, 804 A.2d 267, 2002 D.C. App. LEXIS 389 (2002).

Trial court's adjustment of value of commercial real property to account for duty to preserve historic building's interior was permissible, although somewhat imprecise, since it was based exclusively on taxpayer's own figures proffered at trial. *Square 345 Assocs. Ltd. Pshp. v. District of Columbia*, 721 A.2d 963, 1998 D.C. App. LEXIS 238 (1998).

Although trial court found one component of property tax assessment invalid, it did not have to reject the entire assessment and either reinstate the most recent valid assessment or determine the valuation independently based on evidence presented at trial and without regard to the discredited assessment; rather, trial court could accept whatever elements of assessment it deemed valid and make necessary adjustments required by evidence adduced at trial. D.C. Code 1981, § 47-3305. *Square 345 Assocs. Ltd. Pshp. v. District of Columbia*, 721 A.2d 963, 1998 D.C. App. LEXIS 238 (1998).

Discredited property tax assessment must give way to the trial court's own valuation, determined by its reconciliation of the evidence presented at trial, which becomes the basis for taxation until a subsequent reassessment has been made according to law. *Square 345 Assocs. Ltd. Pshp. v. District of Columbia*, 721 A.2d 963, 1998 D.C. App. LEXIS 238 (1998).

Trial court's statutory authority to review and modify real property tax assessments included power to revise assessment consistent with action Board of Equalization Review indicated that it would have taken, even though tax roll had been certified for year at issue, where taxpayer complied with all procedural requirements for challenging assessment and errors of tax authority prevented Board from timely ruling on taxpayer's motion for reconsideration. D.C. Code 1981, § 47-3303; D.C. Mun.Reg. title 9, § 2020.4. *District of Columbia v. W.T. Galliher & Brother*, 656 A.2d 296, 1995 D.C. App. LEXIS 65 (1995).

Once tax assessment case has come before superior court, District of Columbia is entitled to attempt to establish that value of property is in excess of assessed value; taxpayer cannot be

permitted to eviscerate District's rights by belatedly agreeing to revised assessment. D.C. Code 1981, § 47-3303. *District of Columbia v. New York Life Ins. Co.*, 650 A.2d 671, 1994 D.C. App. LEXIS 213 (1994).

Equitable relief may be obtained against collection of tax if government cannot ultimately prevail under any circumstance and equity jurisdiction otherwise exists. *Barry v. American Tel. & Tel. Co.*, 563 A.2d 1069, 1989 D.C. App. LEXIS 148 (1989).

Decision to leave in force assessments for previous year until District conducted valuation according to law for year in question was within court's discretion, where court reviewed reports submitted by taxpayers' experts and the District's assessor, found District's assessments for year in question flawed, cancelled assessments, and found evidence supporting taxpayer's proposed assessments unconvincing. D.C. Code 1981, §§ 47-3303, 47-3305. *Brisker v. District of Columbia*, 510 A.2d 1037, 1986 D.C. App. LEXIS 352 (1986).

Trial court could set figure it determined was lawful assessment of real property as basis for real estate taxes, that figure to apply until there had been lawful reassessment. D.C. Code 1981, §§ 47-3303, 47-3305. *National Trust for Historic Preservation v. District of Columbia*, 498 A.2d 574, 1985 D.C. App. LEXIS 507 (1985).

Trial court, on finding that hotel property was overassessed for fiscal year 1973, was not without authority to apply the reduced assessment to 1974 and succeeding years until another valuation was made according to law; once jurisdiction attaches in the trial court to consider the legality of particular valuation, the court's valuation must remain binding until it is superseded by a lawful substitution. D.C. Code §§ 47-646(i), 47-709, 47-2403. *District of Columbia v. Burlington Apartment House Co.*, 375 A.2d 1052, 1977 D.C. App. LEXIS 341 (1977).

A final judgment of the superior court on the lawful assessment of a particular property must be treated in the same manner as an equalized assessment from the Board of Equalization and Review, that is, it becomes the basis for taxation until a subsequent reassessment has been made according to law; once the superior court has jurisdiction over valuation, such jurisdiction is coextensive with the existence of the valuation itself. D.C. Code §§ 47-646(i), 47-709, 47-2403. *District of Columbia v. Burlington Apartment House Co.*, 375 A.2d 1052, 1977 D.C. App. LEXIS 341 (1977).

Any conflict between literal language of tax statutes and trial court's duty to ensure the lawful and fair imposition of taxes must be resolved in favor of permitting broad trial court action. D.C. Code § 47-2403. *District of Colum-*



*bia v. Burlington Apartment House Co.*, 375 A.2d 1052, 1977 D.C. App. LEXIS 341 (1977).

Injunctive relief against assessment or collection of a tax may be granted only in most exceptional and stringent circumstances. D.C. Code § 47-2410. *District of Columbia v. Keyes*, 362 A.2d 729, 1976 D.C. App. LEXIS 340 (1976), writ of certiorari denied by 430 U.S. 968, 97 S. Ct. 1651, 52 L. Ed. 2d 360, 1977 U.S. LEXIS 1500 (1977).

Relaxation of statutory requirements in regard to tax litigation and the superimposing of equity jurisprudence on such statutory requirements should be done only in a rare case. *District of Columbia v. Keyes*, 362 A.2d 729, 1976 D.C. App. LEXIS 340 (1976), writ of certiorari denied by 430 U.S. 968, 97 S. Ct. 1651, 52 L. Ed. 2d 360, 1977 U.S. LEXIS 1500 (1977).

Taxes, which are illegally or erroneously assessed and voluntarily paid, cannot be refunded, absent an authorizing statute. *District of Columbia v. Keyes*, 362 A.2d 729, 1976 D.C. App. LEXIS 340 (1976), writ of certiorari denied by 430 U.S. 968, 97 S. Ct. 1651, 52 L. Ed. 2d 360, 1977 U.S. LEXIS 1500 (1977).

Where previous judgment of trial court required real property tax assessment of all single-family property at 55%, trial court did not err in rejecting District of Columbia's method of computation which was designed to comply with such judgment and which resulted in average level of assessment of 55.00772%, and ordering that District recompute assessed value, correct tax roll and reissue supplementary tax bills or refunds within 90 days using method suggested by trial court, which was designed to reach greater mathematical exactitude in computation of real property taxes and which resulted in overall average level of assessment of 54.99908%. *District of Columbia v. Green*, 348 A.2d 305, 1975 D.C. App. LEXIS 279 (1975).

Trial court was not in error in declining to view as de minimis differences in amounts of real property taxes between District of Columbia's method of computation, which was designed to comply with prior judgment requiring real property tax assessment of all single-family property at 55% and which resulted in undercharges to some taxpayers of as much as \$35.98 and overcharges to others of as much as \$72.14, and suggested method by which 37,073 residential taxpayers would have been taxed \$13,468.18 less and 29,788 residential taxpayers taxed \$9,431.14 more than they were taxed under District's method. *District of Columbia v. Green*, 348 A.2d 305, 1975 D.C. App. LEXIS 279 (1975).

#### **Burden of proof.**

Taxpayer asserting invalidity of personal property assessment has the burden of proof.

D.C. Code 1940, §§ 47-1202, 47-1203. *District of Columbia v. Morris*, 159 F.2d 13, 1946 U.S. App. LEXIS 2494 (1946).

A taxpayer bears the burden of proving that a real property assessment is incorrect or illegal, not merely that alternative methods exist giving a different result. *Bender v. District of Columbia*, 804 A.2d 267, 2002 D.C. App. LEXIS 389 (2002).

Mere presence of an alternative viewpoint does not satisfy the taxpayer's burden to show error in property tax assessment. *Square 345 Assocs. Ltd. Pshp. v. District of Columbia*, 721 A.2d 963, 1998 D.C. App. LEXIS 238 (1998).

In tax assessment matters petitioner to the superior court has the burden of proof. D.C. Code § 47-2403; D.C. Code SCR, Tax Rules 3(a), 11(d); D.C. Code SCR, Civil Rule 56. *Wyner v. District of Columbia*, 411 A.2d 59, 1980 D.C. App. LEXIS 239 (1980).

#### **Business privilege tax.**

Where corporation delivered to examiner in office of District of Columbia Assessor of Taxes, checks in respect to business privilege tax assessed against corporation, and a letter protesting the tax, and Assessor's office handed on the checks to office of Collector of Taxes, there was sufficient payment of tax to Collector to permit an appeal by corporation to District of Columbia Board of Tax Appeals. D.C. Code 1951, §§ 47-1593, 47-2403. *Owens-Illinois Glass Co. v. District of Columbia*, 204 F.2d 29, 1953 U.S. App. LEXIS 2387 (C.A.D.C. 1953).

Where it appeared affirmatively from the record and from admissions in open court that personal property tax was not paid until after the Board of Tax Appeals for the District of Columbia had denied a refund of part of taxpayer's business privilege tax for 1938-1939 claimed on ground that personal property tax of like amount should be allowed as a credit, the board was without jurisdiction of claim for refund in view of statutes allowing as a credit against business privilege tax any tax on tangible personalty levied against and paid by taxpayer and allowing an appeal to board provided the taxpayer shall first pay the tax. D.C. Code Supp. V. T. 20, §§ 970f, 974. *J.E. Dyer & Co. v. District of Columbia*, 115 F.2d 945, 1940 U.S. App. LEXIS 3031 (1940).

Where the Board of Tax Appeals for the District of Columbia was without jurisdiction of a claim for refund of part of business privilege tax because there had been no overpayment when claim was made, the stipulation of the parties could not confer jurisdiction. D.C. Code Supp. V. T. 20, §§ 970f, 974. *J.E. Dyer & Co. v. District of Columbia*, 115 F.2d 945, 1940 U.S. App. LEXIS 3031 (1940).

Assuming that the fees paid by non-district-based charter bus operators to obtain a trip permit for six-day period of travel within dis-

tract were business privilege taxes, operators' challenge to payment of the fees need not have been brought under the terms of statute requiring aggrieved taxpayers to first pay such taxes, as legislation imposing the fees was included in code provisions pertaining to vehicle registration. *Am. Bus Ass'n v. District of Columbia*, 2 A.3d 203, 2010 D.C. App. LEXIS 493 (2010).

Where assessor's office, after determining that business privilege tax returns were incorrect or insufficient, gave no notice to taxpayers to file corrected or sufficient returns but proceeded to assess additional taxes, additional assessments were invalid. Acts Aug. 17, 1937, §§ 4, 8, and as amended by Act May 16, 1938, 50 Stat. 689, 690, and 52 Stat. 366, 368; D.C. Code 1940, §§ 47-143, 47-1501 et seq. *Lindner v. District of Columbia*, 32 A.2d 540, 1943 D.C. App. LEXIS 168 (Cr.App. 1943).

The general provisions of statute relating to technical assessment and collection of business privilege taxes cannot override the specific provisions of statute requiring assessor to give notice to taxpayers to file corrected or sufficient returns. Acts Aug. 17, 1937, §§ 8, 11, and as amended by Act May 16, 1938, 50 Stat. 690, and 52 Stat. 368. *Lindner v. District of Columbia*, 32 A.2d 540, 1943 D.C. App. LEXIS 168 (Cr.App. 1943).

#### **De novo review by court.**

Property tax assessment appeal before the Superior Court is subject to de novo evaluation on the basis of evidence presented at trial. *Square 345 Assocs. Ltd. Pshp. v. District of Columbia*, 721 A.2d 963, 1998 D.C. App. LEXIS 238 (1998).

Tax Division proceedings are entirely de novo; court's task is not to conduct review of agency action but, rather, court must make independent valuation of property on basis of evidence presented at trial. D.C. Code 1981, § 47-3303. *District of Columbia v. New York Life Ins. Co.*, 650 A.2d 671, 1994 D.C. App. LEXIS 213 (1994).

In challenge to Board of Equalization and Review tax assessment, trial judge evaluates the factual issues de novo, and although judge may not arbitrarily reject expert testimony, judge may adopt the rationale of one testifying expert over another or even disregard conclusions of both. D.C. Code 1981, § 47-3303. *Wolf v. District of Columbia*, 611 A.2d 44, 1992 D.C. App. LEXIS 156 (1992).

Proceeding before tax division of superior court, appealing second-half real property tax assessment of property in question, was de novo; thus, superior court, in absence of any formal rules defining terms "addition" and "new buildings," was free to supply its own definitional standards in determining whether property was subject only to supplemental annual assessment or supplemental second-half as-

essment. D.C. Code 1981, §§ 47-829, 47-830, 47-3303. *District of Columbia v. Square 254 Ltd. Partnership*, 516 A.2d 907, 1986 D.C. App. LEXIS 465 (1986).

Tax division of the superior court, on de novo review of assessment, may adopt a rationale of one testifying expert over the other, or even disregard conclusions of both, but may not arbitrarily reject such expert testimony. D.C. Code 1981, § 47-3303. *District of Columbia v. Washington Sheraton Corp.*, 499 A.2d 109, 1985 D.C. App. LEXIS 505 (1985).

When taxpayer appeals to superior court, case is subject to de novo evaluation, and court has authority to increase assessment above amount assessed by Board of Equalization and Review. D.C. Code 1981, § 47-3303. *Rock Creek Plaza-Woodner Ltd. Partnership v. District of Columbia*, 466 A.2d 857, 1983 D.C. App. LEXIS 472 (1983).

Superior court may affirm, cancel, reduce or increase tax assessment, and proceeding in such court is a trial de novo necessitating competent evidence to prove matters in issue. D.C. Code § 47-2403. *Wyner v. District of Columbia*, 411 A.2d 59, 1980 D.C. App. LEXIS 239 (1980).

The role of the Superior Court is to afford the petitioner a trial de novo. Thus, the Court must scrutinize the entire process by which the petitioner's expert, the District's assessors, and the District's expert witness arrived at their conclusions. *Square 345 Assoc. Partnership v. District of Columbia*, 123 WLR 1697 (Super. Ct. 1995).

#### **Exempt property.**

Petition for rehearing filed by church trustees whose complaint disputing property tax liability was dismissed because it was filed more than six months after mailing of assessment would be denied, despite contention that the District of Columbia, in assessment process, failed to follow procedures mandated by statutes. D.C. Code §§ 47-645, 47-710. *Trustees of Nineteenth Street Baptist Church v. District of Columbia*, 385 A.2d 8, 1978 D.C. App. LEXIS 373 (1978).

Judicial review is sole remedy available to taxpayer who believes property should be exempt, once Department of Finance and Revenue has made assessment, since Department has no authority to retroactively alter that assessment and grant exemption. D.C. Code §§ 47-801e, 47-2403. *Trustees of Nineteenth Street Baptist Church v. District of Columbia*, 378 A.2d 661, 1977 D.C. App. LEXIS 396 (1977).

Complaint of church trustees who disputed liability for assessed real estate taxes against previously exempt property was barred by limitations, where petition protesting assessment was filed more than six months after mailing of



assessment. D.C. Code §§ 47-801e, 47-2403. Trustees of Nineteenth Street Baptist Church v. District of Columbia, 378 A.2d 661, 1977 D.C. App. LEXIS 396 (1977).

Requirement that petition contesting assessment of real property be filed within six months "after payment of the tax" applies to tax exempt property, and such six-month period runs from date of assessment. D.C. Code §§ 11-1101, 11-1201, 47-709, 47-801a(j), 47-801e, 47-2401 to 47-2407, 47-2403, 47-2405, 47-2413(c). National Graduate University v. District of Columbia, 346 A.2d 740, 1975 D.C. App. LEXIS 270 (1975).

### Federal issues.

Refund and appeal procedures in District of Columbia Court Reform and Criminal Procedure Act do not preclude litigant from raising federal statutory and constitutional claims in District of Columbia courts, with ultimate review of federal claims by United States Supreme Court available by writ of certiorari. Jenkins v. Washington Convention Ctr., 236 F.3d 6, 2001 U.S. App. LEXIS 576 (C.A.D.C. 2001).

Section 1983 did not confer jurisdiction on tax division to hear taxpayers' class action seeking property tax refund; section 1983 did not allow taxpayers to circumvent the Anti-Injunction Act, which required court to dismiss a suit seeking declaratory or injunctive relief with respect to a tax assessment, and taxpayers had an adequate legal remedy for challenging assessments by bringing administrative appeals. District of Columbia v. Craig, 930 A.2d 946, 2007 D.C. App. LEXIS 458 (2007), writ of certiorari denied by 554 U.S. 905, 128 S. Ct. 2947, 171 L. Ed. 2d 868, 2008 U.S. LEXIS 5003, 76 U.S.L.W. 3654 (2008).

### Findings of fact.

In tax assessment cases, the trial court's factual findings are binding upon reviewing court unless they are clearly erroneous; if the findings are acceptable, reviewing court will not disturb the trial court's judgment unless it is plainly wrong or without evidence to support it. Square 345 Assocs. Ltd. Pshp. v. District of Columbia, 721 A.2d 963, 1998 D.C. App. LEXIS 238 (1998).

Requirement that trial court make written findings of fact in tax appeal did not apply to tax appeal resolved on taxpayer's motion for summary judgment. D.C. Code 1981, § 47-3303. District of Columbia v. W.T. Galliher & Brother, 656 A.2d 296, 1995 D.C. App. LEXIS 65 (1995).

Before appellate court can properly review trial court's approval of particular tax appraisal, trial court must provide written findings of facts sufficient to explain why court adopted particular appraisal it relied upon.

D.C. Code 1981, § 47-3303. George Washington University v. District of Columbia, 563 A.2d 759, 1989 D.C. App. LEXIS 172 (1989).

Trial court's adoption of valuation of property, based upon report of one appraiser, was invalid because it was not supported by findings of fact enabling appellate review to be conducted. D.C. Code 1981, § 47-3303. George Washington University v. District of Columbia, 563 A.2d 759, 1989 D.C. App. LEXIS 172 (1989).

In reviewing appeals from Tax Division, Court of Appeals applies same standard of review applicable in other decisions of court in civil cases tried without jury, that is, Court will abide by trial court's factual findings unless they are "clearly erroneous," or unless finding is "plainly wrong or without evidence to support it." D.C. Code 1981, §§ 17-305(a), 47-3304(a). Hutchison Bros. Excavating Co. v. District of Columbia, 511 A.2d 3, 1986 D.C. App. LEXIS 350 (1986).

Refusal to exclude evidence of asking prices for hotel property in year prior to tax year at issue was error in proceeding on petition challenging real property tax assessment; however, such evidentiary error was harmless in view of other testimony and District had presented other credible evidence on which trial court could have based finding that value of the property exceeded the owner's asking price, had it been so persuaded. D.C. Code §§ 47-705, 47-2403. District of Columbia v. Burlington Apartment House Co., 375 A.2d 1052, 1977 D.C. App. LEXIS 341 (1977).

### Gross receipts or earnings tax.

Where petitioner's appeal to the Board of Tax Appeals for the District of Columbia showed on its face, and petitioner's motion to amend it admitted, that the appeal was taken before the second half of the gross earnings taxes were paid, the Board lacked jurisdiction in respect to the second half of the tax, irrespective of the factual premise on which it was based. D.C. Code 1940, § 47-2403. Industrial Bank of Wash. v. District of Columbia, 188 F.2d 46, 1951 U.S. App. LEXIS 2964 (C.A.D.C. 1951).

Where Board of Tax Appeals held that District of Columbia might impose gross receipts tax on sale of directories to telephone companies outside of the district, but made no specific finding on question of when and where title in the directories passed, and record did not show where it passed, Court of Appeals would remand case to the board for findings, on telephone company's appeal from order imposing tax. D.C. Code 1940, §§ 28-1203, 47-1701, 47-2403, 47-2404. District of Columbia v. Chesapeake & Potomac Tel. Co., 179 F.2d 814, 1950 U.S. App. LEXIS 2277 (C.A.D.C. 1950).

The statute relating to state taxation of national bank shares was addressed to state leg-

islatures and was inapplicable to gross earnings tax to which banks in District of Columbia were subject, although statute was relevant as indication of congressional policy. D.C. Code 1940, §§ 47—1701, 47—1703; 12 U.S.C. § 548. *Hamilton Nat. Bank v. District of Columbia*, 156 F.2d 843, 1946 U.S. App. LEXIS 3149 (1946).

Interest paid by national bank in District of Columbia to depositors on savings accounts was not deductible in computing gross earnings within statute imposing tax on gross earnings of national bank. D.C. Code 1940, § 47-1701. *Hamilton Nat. Bank v. District of Columbia*, 156 F.2d 843, 1946 U.S. App. LEXIS 3149 (1946).

Where national banks and savings banks in the District of Columbia engaged in both savings account and commercial banking business, administrative classification for gross earnings tax purposes of state banks as savings banks and national banks as not savings banks was invalid as not in harmony with taxing statute. D.C. Code 1940, §§ 26-104, 47-1701, 47-1703; U.S. Const. Amend. 5. *Hamilton Nat. Bank v. District of Columbia*, 156 F.2d 843, 1946 U.S. App. LEXIS 3149 (1946).

A difference in tax rate on gross earnings as between savings banks and national and all other incorporated banks constituted a valid classification for tax purposes. D.C. Code 1940, §§ 47—1701, 47—1703. *Hamilton Nat. Bank v. District of Columbia*, 156 F.2d 843, 1946 U.S. App. LEXIS 3149 (1946).

A national bank claiming that it was discriminated against by administrative application of statutes imposing tax on gross earnings of banks was entitled to maintain proceeding before Board of Tax Appeals notwithstanding absence of bank favored by the administrative practice. D.C. Code 1940, §§ 47—1701, 47—1703. *Hamilton Nat. Bank v. District of Columbia*, 156 F.2d 843, 1946 U.S. App. LEXIS 3149 (1946).

The United States Court of Appeals for the District of Columbia, upon finding invalid the prevailing administrative practice in assessment of gross earnings tax against banks in District of Columbia, remanded case with instructions to cancel assessment unless tax assessor upon re-examination of entire subject removed discriminations. D.C. Code 1940, §§ 47—1701, 47—1703. *Hamilton Nat. Bank v. District of Columbia*, 156 F.2d 843, 1946 U.S. App. LEXIS 3149 (1946).

District's enactment of tax on gross receipts received from sale of toll communications services that originated from or terminated on telecommunications equipment located in District and billed to District telephone did not violate origination clause requirement that revenue bill originate in House of Representatives; self-government act, which provided source of

local government's taxing authority, was not "revenue bill" for origination clause purposes, given that bill did not levy taxes to generate revenue for United States government, but rather provided measure of self-government for citizens of District. U.S. Const. Art. 1, § 7, cl. 1; D.C. Code 1981, §§ 1-201 et seq., 47-2501(b). *Sprint Communications Co. v. Kelly*, 642 A.2d 106, 1994 D.C. App. LEXIS 31 (1994), writ of certiorari denied by 513 U.S. 916, 115 S. Ct. 294, 130 L. Ed. 2d 208, 1994 U.S. LEXIS 6972, 63 U.S.L.W. 3267 (1994).

Enactment of tax on gross receipts received from sale of toll communications services that originated from or terminated on telecommunications equipment located in District and billed to District telephone, combined with exemptions and credits against personal property and certain sales and use taxes only when latter were paid to District, impermissibly discriminated against interstate commerce in violation of commerce clause; only company that could fully benefit from available exemptions was one that sold in the District only what it produced there. U.S. Const. Art. 1, § 8, cl. 3; D.C. Code 1981, §§ 47-1508(a)(3)(B), 47-2005(5), 47-2206(1), 47-2501(b), (b)(3)(B, C). *Sprint Communications Co. v. Kelly*, 642 A.2d 106, 1994 D.C. App. LEXIS 31 (1994), writ of certiorari denied by 513 U.S. 916, 115 S. Ct. 294, 130 L. Ed. 2d 208, 1994 U.S. LEXIS 6972, 63 U.S.L.W. 3267 (1994).

Antiinjunction statute precluded exercise jurisdiction over constitutional challenge to gross receipts tax where taxpayers, who had not paid challenged assessment, failed to show that under no circumstances could District of Columbia have ultimately prevailed. D.C. Code 1981, § 47-3307. *Barry v. American Tel. & Tel. Co.*, 563 A.2d 1069, 1989 D.C. App. LEXIS 148 (1989).

#### In general.

Statutory scheme for appealing property tax assessments, which scheme required administrative appeals prior to bringing action in superior court, provided taxpayers an adequate remedy to challenge the reassessment of their property, and thus, exception to Anti-Injunction Act, which Act required court to dismiss a suit seeking declaratory or injunctive relief with respect to a tax assessment, did not apply to taxpayers' class action for tax refund. *District of Columbia v. Craig*, 930 A.2d 946, 2007 D.C. App. LEXIS 458 (2007), writ of certiorari denied by 554 U.S. 905, 128 S. Ct. 2947, 171 L. Ed. 2d 868, 2008 U.S. LEXIS 5003, 76 U.S.L.W. 3654 (2008).

Taxpayer who is dissatisfied with Board of Equalization and Review's informal resolution regarding assessed value of property is entitled, as matter of right, to new valuation, which is to be made through formal, adversarial, and



judicial process before superior court. D.C. Code 1981, § 47-3303. *District of Columbia v. New York Life Ins. Co.*, 650 A.2d 671, 1994 D.C. App. LEXIS 213 (1994).

Speculative charges about proponent's motives for proposing initiative (Taxpayers' Right to Know Act) allegedly to retaliate against owners of large office buildings as result of success in tax assessment appeals were irrelevant to issue whether proposed initiative was proper subject. D.C. Code 1981, § 1-1320(b). *Hessey v. Burden*, 615 A.2d 562, 1992 D.C. App. LEXIS 280 (1992), remanded by, appeal dismissed sub nomine *Price v. District of Columbia Bd. of Elections & Ethics*, 645 A.2d 594, 1994 D.C. App. LEXIS 121 (D.C. 1994).

Prior to creation of Board of Tax Appeals for District of Columbia, taxpayer was subject to common-law rule prohibiting challenge of tax unless involuntarily paid, and a mere statement tax is being paid under protest does not make it an "involuntary payment". D.C. Code 1940, § 47-2401 et seq. *Lindner v. District of Columbia*, 32 A.2d 540, 1943 D.C. App. LEXIS 168 (Cr.App. 1943).

A taxpayer may contest validity of tax voluntarily paid, which is a new right created by act establishing Board of Tax Appeals for District of Columbia, and remedy provided by the act is the only remedy for such right. D.C. Code 1940, § 47-2401 et seq. *Lindner v. District of Columbia*, 32 A.2d 540, 1943 D.C. App. LEXIS 168 (Cr.App. 1943).

Congress may provide an exclusive administrative remedy for recovery of illegally collected taxes, or abolish common-law right of action and substitute new statutory right, but, unless so declared expressly or impliedly, statutory remedy is "cumulative" of common law remedy. *Lindner v. District of Columbia*, 32 A.2d 540, 1943 D.C. App. LEXIS 168 (Cr.App. 1943).

The remedy before Board of Tax Appeals for District of Columbia, afforded an aggrieved taxpayer, is not exclusive of common law remedy. D.C. Code 1940, § 47-2401 et seq. *Lindner v. District of Columbia*, 32 A.2d 540, 1943 D.C. App. LEXIS 168 (Cr.App. 1943).

The statutory remedy given aggrieved taxpayer is but "cumulative" unless it is entirely adequate for protection of existing rights. *Lindner v. District of Columbia*, 32 A.2d 540, 1943 D.C. App. LEXIS 168 (Cr.App. 1943).

As to taxpayer paying voluntarily, act creating Board of Tax Appeals for District of Columbia created new right and the remedy provided by the act is exclusive, but, as to taxpayer paying involuntarily within commonlaw meaning, remedy before the board is cumulative and such taxpayer may elect between statutory remedy and common law remedy. D.C. Code 1940, § 47-2401 et seq. *Lindner v. District of*

*Columbia*, 32 A.2d 540, 1943 D.C. App. LEXIS 168 (Cr.App. 1943).

#### **Income, franchise, and use taxes.**

Tax Court was not precluded, by lack of regulatory formula, from determining income fairly attributable to District of Columbia for franchise tax purposes but could determine such amount by applying applicable tax regulations and using formula Tax Court deemed best suited to determine such income. D.C. Code 1951, §§ 47-1580a, 47-1586, 47-2403. *District of Columbia v. Gallant Inc.*, 290 F.2d 745, 1961 U.S. App. LEXIS 4620 (C.A.D.C. 1961).

Taxpayer's petition for refund of use tax assessment was to be filed within six months of taxpayer's payment of the tax rather than within six months of the assessment; overruling *Donahue v. District of Columbia*, 368 A.2d 1147. D.C. Code 1973, § 47-2403. *Peoples Drug Stores, Inc. v. District of Columbia*, 470 A.2d 751, 1983 D.C. App. LEXIS 549 (1983).

#### **Inheritance tax.**

Letter which was signed by executor of estate and specifically stated that it was sent as agent for residuary legatee and that legatee wished to appeal inheritance tax assessment contained statement "sufficient to indicate that court has jurisdiction of the subject" within rule authorizing informal petitions consisting of letter addressed to the court and signed by taxpayer if it contains such statements. Tax Court Rules, rule 7(a, c), 26 U.S.C. (I.R.C.1954) § 7453; D.C. Code 1961, § 47-2403. *District of Columbia v. Payne*, 374 F.2d 261, 1966 U.S. App. LEXIS 3939 (C.A.D.C. 1966).

A letter which was signed by officer of executor of decedent's estate and which specifically stated that it was sent as agent for residuary legatee and that the legatee wished to appeal inheritance tax assessment substantially complied with District of Columbia Tax Court rule providing for informal petition consisting of letter addressed to court and actually signed by taxpayer if it contains statements sufficient to indicate that court has jurisdiction of subject. Tax Court Rules, rule 7(a, c), 26 U.S.C. (I.R.C.1954) § 7453; D.C. Code 1961, § 47-2403. *District of Columbia v. Payne*, 374 F.2d 261, 1966 U.S. App. LEXIS 3939 (C.A.D.C. 1966).

A remainder interest under a trust, under applicable regulation, in absence of evidence relating to value filed with assessor, would not be deemed to establish a presumption conclusive in the Tax Court that such remainder was without value, but under such regulation remainderman had burden of introducing such evidence as would enable Tax Court to find market value of remainder was less than figure on which tax was assessed, but in view of

remainderman's misinterpretation of such regulation, decision denying him relief would be set aside and remanded to permit remainderman to introduce evidence of market value. D.C. Code 1951, §§ 47-1602, 47-1604, 47-2403. *Alabama Polytechnic Institute v. District of Columbia*, 250 F.2d 408, 1957 U.S. App. LEXIS 4954 (C.A.D.C. 1957).

The statute providing for payment of an inheritance tax within 18 months after decedent's death was not in conflict with statute requiring person appealing from assessment within 90 days after receipt of notice of assessment, to first pay the tax, but such statutes merely provided one method for payment of tax in the regular course and an alternative method for payment in event of appeal from assessment. D.C. Code Supp. V, T. 20, §§ 969c, 974. *Rynex v. District of Columbia*, 114 F.2d 842, 1940 U.S. App. LEXIS 3225 (1940).

Under statutes providing for payment of inheritance tax within 18 months after decedent's death, and requiring person appealing from assessment within 90 days after receipt of notice of assessment to first pay the tax, the payment of the tax within 90 days after receipt of notice of assessment was condition precedent to the taking of the appeal. D.C. Code Supp. V, T. 20, §§ 969c, 974. *Rynex v. District of Columbia*, 114 F.2d 842, 1940 U.S. App. LEXIS 3225 (1940).

Genuine issues of material fact existed regarding decedent's intent in establishing joint tenancies, which was controlling as to applicability of inheritance tax on properties held by beneficiaries, thus precluding summary judgment in favor of District, where affidavit submitted in support of District's motion was inadmissible hearsay, based upon what beneficiary's counsel allegedly told senior tax auditor for District, thus failing to meet requirement that affidavits offered in support of summary judgment motion be made on personal knowledge. D.C. Code 1981, § 47-1902; Civil Rule 56(e). *Richardson v. District of Columbia*, 522 A.2d 1295, 1987 D.C. App. LEXIS 320 (1987).

#### **Personal property tax.**

Where finance officer and taxpayer agreed that cost less depreciation should be basis for assessment of taxpayer's vending machines, but disagreed as to useful lives, District of Columbia Tax Court, on finding that officer's application of standard was incorrect, should have directed that assessment be made on basis of court's finding from evidence of useful life, rather than leaving officer's erroneous assessment standing for lack of proof of actual value. D.C. Code 1961, §§ 47-1202, 47-1208, 47-2403. *Pepsi-Cola Bottling Co. v. District of Columbia*, 337 F.2d 109, 1964 U.S. App. LEXIS 5187 (C.A.D.C. 1964).

Taxpayer was not estopped from denying, for personal property tax purposes, the figures set up by her in her income tax returns for depreciation purposes. D.C. Code 1940, §§ 47-1202, 47-1203. *District of Columbia v. Morris*, 159 F.2d 13, 1946 U.S. App. LEXIS 2494 (1946).

The assessor cannot be held to any fixed formula or specific catalog of data in determining his proposed personal property assessments and is entitled to base his action on the best information he can procure. D.C. Code 1940, §§ 47-1202, 47-1203. *District of Columbia v. Morris*, 159 F.2d 13, 1946 U.S. App. LEXIS 2494 (1946).

If valuation of personal property proposed by assessor is correct in dollar amount, as the fair cash value, not less than the full and true value in lawful money, the assessment should be upheld even if the data or method used by him is incomplete or even erroneous, but, if proposed assessment is incorrect in dollar amount, the final assessment must be based on correct value, even though assessor's data and method of computation were correct. D.C. Code 1940, §§ 47-1202, 47-1203. *District of Columbia v. Morris*, 159 F.2d 13, 1946 U.S. App. LEXIS 2494 (1946).

Where taxpayer pleaded that proposed valuations of personal property were in excess of fair cash value of property, an issue of fact was presented which should have been resolved by a finding and the lack of a finding and conclusion on the point required the remandment of the case to Board of Tax Appeals. D.C. Code 1940, §§ 47-1202, 47-1203. *District of Columbia v. Morris*, 159 F.2d 13, 1946 U.S. App. LEXIS 2494 (1946).

When personal property assessment is challenged and is brought before the Board of Tax Appeals, the issue is the correct fair cash value, not merely the basis upon which the assessor proposed his assessment. D.C. Code 1940, §§ 47-1202, 47-1203. *District of Columbia v. Morris*, 159 F.2d 13, 1946 U.S. App. LEXIS 2494 (1946).

#### **Prior payment of tax required to confer jurisdiction.**

Where taxpayers paid first half of real estate taxes levied for 1969 fiscal year before petitioning District of Columbia Tax Court on December 30, 1968 for review of underlying assessment but did not pay second half of challenged taxes until March 26, 1969, failure of taxpayers to pay all of challenged taxes levied for the entire fiscal year in question prior to time their appeal was filed deprived Tax Court of jurisdiction over any and all of the taxes in issue. D.C. Code §§ 47-501, 47-702, 47-708, 47-709, 47-1001a, 47-1209, 47-2402, 47-2403, 47-2405, 47-2413(c). *District of Columbia v. Berenter*, 466 F.2d 367, 1972 U.S. App. LEXIS 8260 (C.A.D.C. 1972).



Where before taxpayers elected to invoke appeal procedure to District of Columbia Tax Court for review of underlying assessment of real estate taxes they could have chosen to utilize common-law remedies expressly available under statute but once they elected to file an appeal they apparently lost that right, though taxpayers might now be without a remedy, it was due to their own failure to comply with jurisdictional requirements of procedure they elected to invoke and not due to any deprivation occasioned by the statutory scheme itself, and prepayment requirement that taxpayer first pay the tax before appeal may be taken did not visit any undue hardship upon taxpayers and did not violate due process clause. D.C. Code §§ 47-709, 47-1209, 47-2403, 47-2405, 47-2413(c). *District of Columbia v. Berenter*, 466 F.2d 367, 1972 U.S. App. LEXIS 8260 (C.A.D.C. 1972).

The statutory requirement that one who appeals to the Board of Tax Appeals for the District of Columbia shall first pay such tax is jurisdictional. D.C. Code 1940, § 47-2403. *Industrial Bank of Wash. v. District of Columbia*, 188 F.2d 46, 1951 U.S. App. LEXIS 2964 (C.A.D.C. 1951).

The statute requiring person appealing from assessment within 90 days after receipt of notice of assessment, to first pay the tax, together with penalties and interest due thereon, was general statute applicable to all taxes referred to therein, and to all time situations which might arise, and reference to interest and penalties was used in respect of taxes whose due dates might antedate expiration of 90 days after receipt of notice of assessment within which appeal was to be taken. D.C. Code Supp. V, T. 20, § 974. *Rynex v. District of Columbia*, 114 F.2d 842, 1940 U.S. App. LEXIS 3225 (1940).

Only after a property owner has appealed to the Board of Real Property Assessments and Appeals (BRPAA) and paid her taxes may she petition the Superior Court Tax Division for review and for a tax refund; subject matter jurisdiction of the Superior Court does not attach until that administrative review prerequisite has been satisfied. *District of Columbia v. Craig*, 930 A.2d 946, 2007 D.C. App. LEXIS 458 (2007), writ of certiorari denied by 554 U.S. 905, 128 S. Ct. 2947, 171 L. Ed. 2d 868, 2008 U.S. LEXIS 5003, 76 U.S.L.W. 3654 (2008).

Challenge to assessment of tax on real property may be treated as a tax appeal provided the tax is first paid. *Agbaraji v. Aldridge*, 836 A.2d 567, 2003 D.C. App. LEXIS 688 (2003).

Like the anti-injunction statute, the statutory provision allowing a person to appeal a tax assessment, as long as the appeal is brought within six months of the assessment and the subject tax is paid, deprives the Superior Court of jurisdiction over a taxpayer's appeal if the

tax has not been paid. *Agbaraji v. Aldridge*, 836 A.2d 567, 2003 D.C. App. LEXIS 688 (2003).

Superior Court correctly decided that it would not exercise jurisdiction over taxpayer's suit as a tax appeal in suit to enjoin removal of property tax lien, where tax was not paid and more than six months elapsed from date of assessment until filing of suit. *Agbaraji v. Aldridge*, 836 A.2d 567, 2003 D.C. App. LEXIS 688 (2003).

Taxpayer must pay all taxes due, together with interest accruing until time of payment, before filing in Superior Court petition challenging notice of assessment of personal property tax deficiency; it is insufficient that taxpayer pay only amount of interest due at time of assessment before challenging that assessment. D.C. Code 1981, §§ 47-453, 47-3303. *First Interstate Credit Alliance, Inc. v. District of Columbia*, 604 A.2d 10, 1992 D.C. App. LEXIS 59 (1992).

Failure to file action challenging amount of property tax assessed within six months after date of assessment or failure to pay tax, penalties, and interest due deprives Superior Court of jurisdiction to consider taxpayer's appeal. D.C. Code 1981, § 47-3303. *First Interstate Credit Alliance, Inc. v. District of Columbia*, 604 A.2d 10, 1992 D.C. App. LEXIS 59 (1992).

Where petition for review was filed on March 30, tax payment was mailed in envelope bearing private meter cancellation dated March 30 and United States Postal Service cancellation dated April 1, copy of taxpayer's tax bill was returned with tax payment and both were dated and stamped as received on April 1, April 1 official postmark rather than March 30 office meter cancellation inscribed by taxpayer's attorney controlled, and thus, since taxpayer filed her petition for review on March 30, before she paid her tax, trial court correctly dismissed petition for lack of jurisdiction. D.C. Code § 47-2403. *Wagshal v. District of Columbia*, 430 A.2d 524, 1981 D.C. App. LEXIS 276 (1981).

Where trial court's order made clear that ground for dismissal of petition was lack of jurisdiction over subject matter because of failure to follow statutory requirement that payment of tax must precede challenge to tax, trial court did not err by relying on material attached to pleadings and dismissing taxpayer's petition. D.C. Code § 47-2403. *Wagshal v. District of Columbia*, 430 A.2d 524, 1981 D.C. App. LEXIS 276 (1981).

Superior court of the District of Columbia did not have jurisdiction to hear appeal from tax assessment where taxpayer had paid only the first installment on its taxes at the time it filed appeal, even though taxpayer paid the second installment before superior court dismissed the appeal and before the time had expired for the filing of the petition. D.C. Code § 47-2403. *George Hyman Constr. Co. v. District of Colum-*

bia, 315 A.2d 175, 1974 D.C. App. LEXIS 358 (1974).

Since taxpayer's allegation that taxes imposed on building which was completed in second half of the year should have been imposed only for the second half and should not have been imposed under statute providing for annual assessment was an attack on the propriety of the annual assessment, taxpayer's attack was on entire assessment, even though taxpayer recognized validity of assessment for the second half, and superior court was without jurisdiction to hear the appeal where taxpayer had paid only the first installment of the tax. D.C. Code §§ 47-702, 47-709 to 47-711, 47-2403. *George Hyman Constr. Co. v. District of Columbia*, 315 A.2d 175, 1974 D.C. App. LEXIS 358 (1974).

Where taxpayer pursued statutory remedy provided for appeals of tax assessments, taxpayer was required to comply with the statutory requirements, including requirement that tax be paid prior to initiation of the appeal, even though taxpayer was arguing that the assessment was void and not merely excessive. D.C. Code § 47-2403. *George Hyman Constr. Co. v. District of Columbia*, 315 A.2d 175, 1974 D.C. App. LEXIS 358 (1974).

Judicial review of income tax assessment did not lie in District of Columbia until disputed tax, together with interest and penalties, had been paid. D.C. Code § 47-2403. *Perry v. District of Columbia*, 314 A.2d 766, 1974 D.C. App. LEXIS 352 (1974), writ of certiorari denied by 419 U.S. 836, 95 S. Ct. 63, 42 L. Ed. 2d 62, 1974 U.S. LEXIS 2407 (1974).

#### Public interest groups.

Proposed electoral initiative, to create Office of Public Advocate for Assessments and Taxation (OPA) with authority to appear and advocate on behalf of interest of public and general taxpayers of District of Columbia in administrative tax assessment proceedings and to appeal tax assessments by mayor to superior court and Court of Appeals, did not impermissibly infringe on mayor's responsibility for assessment of taxable property in violation of Home Rule Act. D.C. Code 1981, §§ 1-1320(b)(1), 47-310(a)(5). *Hessey v. Burden*, 584 A.2d 1, 1990 D.C. App. LEXIS 296 (1990), remanded by 615 A.2d 562, 1992 D.C. App. LEXIS 280 (D.C. 1992).

Proposed electoral initiative, to create Office of Public Advocate for Assessments and Taxation (OPA) with authority to appear and advocate on behalf of interest of public and general taxpayers of District of Columbia in administrative tax assessment proceedings and to appeal tax assessments by mayor to superior court and Court of Appeals, would not impermissibly expand jurisdiction of courts in violation of Home Rule Act. D.C. Code 1981, §§ 1-

233(a)(4), 1-1320(b)(1). *Hessey v. Burden*, 584 A.2d 1, 1990 D.C. App. LEXIS 296 (1990), remanded by 615 A.2d 562, 1992 D.C. App. LEXIS 280 (D.C. 1992).

#### Time to appeal.

Requirement that appeal be taken within 90 days after notice of assessment of realty tax is jurisdictional to the appeal. D.C. Code 1951, § 47-2403. *Jewish War Veterans, U.S.A. National Memorial, Inc. v. District of Columbia*, 243 F.2d 646, 1957 U.S. App. LEXIS 2973 (C.A.D.C. 1957).

Taxpayer could not toll running of 90 days period within which to appeal real estate tax assessment by merely returning to assessor the notice of assessment which taxpayer received and which determined beginning of the period. D.C. Code 1951, §§ 47-801b, 47-801c, 47-801e, 47-2403. *Jewish War Veterans, U.S.A. National Memorial, Inc. v. District of Columbia*, 243 F.2d 646, 1957 U.S. App. LEXIS 2973 (C.A.D.C. 1957).

Where taxpayer overpaid its business privilege tax only because, on its own responsibility, it made incorrect returns and underpaid its personal property taxes, claim that business privilege taxes should be abated to extent of additional payment of tangible personal property taxes was barred in view of fact that appeal to Board of Tax Appeals was made more than 90 days after notice of assessment of business privilege taxes. D.C. Code Supp. V, T. 20, § 970f; D.C. Code 1940, §§ 47-1408, 47-2403. *Hecht Co. v. District of Columbia*, 129 F.2d 353, 1942 U.S. App. LEXIS 3378 (1942).

Appeal from assessment of deficiency in corporate franchise taxes had to be filed within six months from date of assessment of deficiency. D.C. Code 1973, § 47-1593. *Floyd E. Davis Mortg. Corp. v. District of Columbia*, 455 A.2d 910, 1983 D.C. App. LEXIS 322 (1983).

Reference in statute dealing with refund claims to the right of the taxpayer to appeal as provided in sections relating to assessments was meant to set forth the nature of the judicial remedy available to the taxpayer claiming a refund in the event that he was unsuccessful in obtaining the refund from the Department of Finance and Revenue; it does not impose upon the refund claimant the six month time limitation contained in statutes dealing with appeals from an assessment. D.C. Code §§ 47-2403, 47-2413(a). *Carter-Lanhardt, Inc. v. District of Columbia*, 413 A.2d 916, 1980 D.C. App. LEXIS 277 (1980).

General three-year statute of limitations governs an appeal to superior court from denial of refund of taxes. D.C. Code §§ 12-301(8), 47-2403. *Carter-Lanhardt, Inc. v. District of Columbia*, 413 A.2d 916, 1980 D.C. App. LEXIS 277 (1980).



Procedure for contesting tax assessment of property which owner believes should be exempt is to file petition with tax division of superior court within six months after mailing of notice of assessment and failure to do so deprives taxpayer of judicial review. D.C. Code §§ 47-801e, 47-2403. *Trustees of Nineteenth Street Baptist Church v. District of Columbia*, 378 A.2d 661, 1977 D.C. App. LEXIS 396 (1977).

Petition contesting assessment of personal property taxes was properly dismissed for lack of jurisdiction where it was not filed within six months after taxpayer received notice of assessment. D.C. Code § 47-2403. *Donahue v. District of Columbia*, 368 A.2d 1147, 1977 D.C. App. LEXIS 409 (1977).

In case wherein taxpayers, who did not appeal within permitted time to board of equalization and review, sought refund of portion of taxes paid due to change in level of assessment from 55% to 60% of estimated value as part of "stairstep" approach to achieve phased increase in debasement factor for single-family residential properties, equitable intervention was not justified on theory that district officials' concealment of "stairstep" plan prevented taxpayers from pursuing administrative remedies, in light of fact that other taxpayers were able to discover "stairstep" plan while pursuing administrative remedies. D.C. Code §§ 47-646(i), 47-709, 47-2405, 47-2407. *District of Columbia v. Keyes*, 362 A.2d 729, 1976 D.C. App. LEXIS 340 (1976), writ of certiorari denied by 430 U.S. 968, 97 S. Ct. 1651, 52 L. Ed. 2d 360, 1977 U.S. LEXIS 1500 (1977).

Requirement of timely filing of petition contesting assessment of real property taxes is jurisdictional requirement which cannot be waived by failure to assert six-month limitation period as affirmative defense in answer to petition. D.C. Code § 47-2403. *National Graduate University v. District of Columbia*, 346 A.2d 740, 1975 D.C. App. LEXIS 270 (1975).

Where real property owners who had not sought administrative review of District of Columbia tax assessments were excused from so doing because of lack of knowledge that debasement factor had been raised, those property owners who had sought administrative review of assessments would not be required to wait statutory period and pay tax before applying for relief by injunction. D.C. Code §§ 47-709, 47-2403 to 47-2405, 47-2410. *District of Columbia v. Green*, 310 A.2d 848, 1973 D.C. App. LEXIS 370 (1973).

Where taxing officials did not disclose change in assessment levels until after time for administrative review of District of Columbia tax assessments had passed, affected real property owners were not barred from seeking injunctive relief by their failure to exhaust administrative remedies. D.C. Code §§ 47-709, 47-2403 to 47-

2405, 47-2410. *District of Columbia v. Green*, 310 A.2d 848, 1973 D.C. App. LEXIS 370 (1973).

#### **Validity of assessment.**

Once a civil tax assessment case has come before the superior court, the District of Columbia is entitled to attempt to establish that the value of the property is in excess of the assessed value, and the trial court has the power to increase the assessment. *Bender v. District of Columbia*, 804 A.2d 267, 2002 D.C. App. LEXIS 389 (2002).

Prior sale of historic building was not relevant to valuation of property for tax assessment purposes, since sale price had been established more than five years before valuation date. *Square 345 Assocs. Ltd. Pshp. v. District of Columbia*, 721 A.2d 963, 1998 D.C. App. LEXIS 238 (1998).

Assessment for prior tax year was not relevant, for purposes of determining validity of subsequent year's assessment, even though there was a 63% valuation differential, where no separate basis was articulated to discredit subsequent year's assessment. *Square 345 Assocs. Ltd. Pshp. v. District of Columbia*, 721 A.2d 963, 1998 D.C. App. LEXIS 238 (1998).

Tax assessor's testimony supported finding that tax assessor considered requirement to preserve exterior of historic building when valuing property for tax purposes, but determined that it would not detract from property's overall value. *Square 345 Assocs. Ltd. Pshp. v. District of Columbia*, 721 A.2d 963, 1998 D.C. App. LEXIS 238 (1998).

Tax assessor's inability to explain origin of computational standard used to calculate property tax assessment did not render assessment arbitrary and invalid. *Square 345 Assocs. Ltd. Pshp. v. District of Columbia*, 721 A.2d 963, 1998 D.C. App. LEXIS 238 (1998).

Although trial court mistakenly compared tax assessor's basic rate of \$65 to \$67 figure arrived at by taxpayer's assessor to represent the ultimate value of the property per square foot, this did not contribute in any significant way to court's acceptance of tax assessor's methodology or its overall valuation of property, so as to render assessment invalid. *Square 345 Assocs. Ltd. Pshp. v. District of Columbia*, 721 A.2d 963, 1998 D.C. App. LEXIS 238 (1998).

Department of Finance and Revenue properly exercised its authority by assessing real property taxes on taxpayers' commercial real estate based on "corrected" notices of assessment after discovering that original notices were incorrect due to clerical error, in that Department was empowered to impartially assess property in accord with specific legislative and regulatory guidelines, and as such it had not only the power, but the duty to insure that

true values arrived at by the assessors were accurately transmitted. D.C. Code 1978 Supp., §§ 47-644(a), 47-645, 47-646(e-g, i). 1776 K Street Associates v. District of Columbia, 446 A.2d 1114, 1982 D.C. App. LEXIS 317 (1982).

An unacted-upon offer to sell is not highly probative of true value in the context of an assessment proceeding; a landowner's offering price is likely to be exaggerated, as a starting point for a bargaining; however, that goes to the evidence's weight, rather than its admissibility. D.C. Code §§ 47-705, 47-2403. District of Co-

lumbia v. Burlington Apartment House Co., 375 A.2d 1052, 1977 D.C. App. LEXIS 341 (1977).

Where an assessment is based not on a valuation made according to law but rather on a figure determined by the court to be erroneous, arbitrary and unlawful, the figure thus rejected must be considered a mere nullity, incapable of valid future applicability. D.C. Code §§ 47-705, 47-2403. District of Columbia v. Burlington Apartment House Co., 375 A.2d 1052, 1977 D.C. App. LEXIS 341 (1977).

## § 47-3304. Review by Court; finality of decision; modification or reversal.

(a) Decisions of the Superior Court in civil tax cases are reviewable in the same manner as other decisions of the court in civil cases tried without a jury. The District of Columbia Court of Appeals has the power to affirm, modify, or reverse the decision of the Superior Court with or without remanding the case for hearing.

(b) The decision of the Superior Court shall become final:

(1) Upon the expiration of the time allowed for filing a petition for review, if no petition is filed within that time;

(2) Upon the expiration of time allowed for filing a petition for certiorari if the decision of the Superior Court has been affirmed on appeal, the appeal has been dismissed, or no petition for certiorari has been filed;

(3) Upon denial of a petition for certiorari if the decision of the Superior Court has been affirmed on appeal or the appeal has been dismissed; or

(4) Upon the expiration of 30 days from the date of issuance of the mandate of the Supreme Court, if that Court has affirmed the decision of the Superior Court or dismissed the petition for review.

(c) If the Supreme Court directs that the decision of the Superior Court be modified or reversed, the decision rendered in accordance with the Supreme Court's mandate shall become final upon the expiration of 30 days from the time it was rendered unless within that time either the District or the taxpayer has instituted proceedings to have the decision corrected to accord with the mandate, in which event the decision of the Superior Court shall become final when so corrected.

(d) If the decision of the Superior Court is modified or reversed by the District of Columbia Court of Appeals and if (1) the time allowed for filing a petition for certiorari has expired and no such petition has been filed, (2) the petition for certiorari has been denied, or (3) the decision of the District of Columbia Court of Appeals has been affirmed by the Supreme Court, then the decision of the Superior Court rendered in accordance with the mandate of the District of Columbia Court of Appeals shall become final upon the expiration of 30 days from the time the decision of the Superior Court was rendered, unless within that time either the District or the taxpayer has instituted proceedings to have the decision corrected so that it will accord with the mandate, in which event the decision of the Superior Court shall become final when corrected.



(e) If the Supreme Court orders a rehearing, or if the case is remanded by the District of Columbia Court of Appeals for rehearing and if (1) the time allowed for filing of a petition for certiorari has expired and no petition has been filed, (2) the petition for certiorari has been denied, or (3) the decision of the District of Columbia Court of Appeals has been affirmed by the Supreme Court; then the decision of the Superior Court rendered upon such rehearing shall become final in the same manner as though no prior decision had been rendered.

(f) As used in this section, the term "mandate", in case a mandate has been recalled prior to the expiration of 30 days from the date of issuance, means the final mandate.

(Aug. 17, 1937, 50 Stat. 692, ch. 690, title IX, § 4; May 16, 1938, 52 Stat. 371, ch. 223, § 8; June 25, 1948, 62 Stat. 991, ch. 646, § 32(b); May 24, 1949, 63 Stat. 107, ch. 139, § 127; July 10, 1952, 66 Stat. 544, ch. 649, § 3(b); July 29, 1970, 84 Stat. 579, Pub. L. 91-358, title I, § 161(a)(4); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Alcoholic beverage control, tax appeals, see § 25-910.

Board established, appeal of real property assessments, equalizations, valuations or classifications, see § 47-825.01.

Cigarette tax, appeals, see § 47-2413.

Crediting of tax refunds against delinquent taxes, notice, protest and appeals, see § 47-4431.

Gross sales tax, appeals, see § 47-2021.

Income and franchise taxes, right of aggrieved persons to judicial appeal, see § 47-1815.01.

Inheritance and estate taxes, authority of Mayor to determine tax, deficiencies and appeals, see § 47-3717.

Motor fuel tax, appeal and judicial review, see § 47-2319.

Real property and assessment tax, deferral, appeals by Bureau of National Affairs, see § 47-845.01.

Real property assessment and tax, new buildings, complaints and appeals, see § 47-830.

Real property tax, assessment of omitted properties, appeals, see § 47-831.

Real property tax, reassessment or redistribution, notice and appeal, see § 47-834.

Recordation tax on deeds, deficiency assessment appeal, see § 42-1114.

Taxation of personal property, appeal from assessment or denial of claim for refund, see § 47-1533.

Taxation of personal property, rolling stock, appeals, see § 47-1512.

Tax-exempt property, appeals from assessments, see § 47-1009.

Toll telecommunication service tax, authority of Mayor to determine tax, deficiencies and appeals, see § 47-3908.

Traffic regulation, excise tax appeals, see § 50-2201.22.

Transfer tax on real property, appeal and judicial review, see § 47-914.

**Section references.** — This section is referred to in §§ 47-811.02, 47-3305, 47-3310, and 47-4437.

**Prior Codifications.** — 1981 Ed., § 47-3304.

1973 Ed., § 47-2404.

## CASE NOTES

### ANALYSIS

Finality of decisions.

Findings of fact.

In general.

Questions presented.

Record on appeal.

Timeliness of appeal.

### Finality of decisions.

Trial court erred in directing District of Co-

lumbia to refund property tax overpayment within ten days of its order; the requisite finality is defined by statute and is not satisfied by mere lapse of ten days after entry of trial court's order. D.C. Code §§ 47-1016, 47-2404, 47-2407. *District of Columbia v. Burlington Apartment House Co.*, 375 A.2d 1052, 1977 D.C. App. LEXIS 341 (1977).

### Findings of fact.

The Court of Appeals for the District of Co-

lumbia has power to review decisions of Board of Tax Appeals for the District as under equity practice in which whole case, both facts and law, are open for consideration, subject to rule that findings of fact are treated as presumptively correct and accepted unless clearly wrong. D.C. Code 1940, § 47-2404(a). District of Columbia v. Pace, 64 S.Ct. 406, 1944 U.S. LEXIS 1145 (U.S. Dist. Col. 1944).

In proceedings to review assessment of inheritance tax in the District of Columbia, involving question of whether decedent was domiciled in Florida or in the District, Court of Appeals, convinced that Board of Tax Appeals was clearly wrong in finding that decedent was domiciled in the District, could set aside board's determination. Code D.C. 1940, § 47-2404(a). District of Columbia v. Pace, 64 S.Ct. 406, 1944 U.S. LEXIS 1145 (U.S. Dist. Col. 1944).

A federal rule of civil procedure relating to review of findings of fact generally would not supersede special statutory measure of review of decisions of Board of Tax Appeals of District of Columbia. Code D.C. 1940, § 47-2404(a); Federal Rules of Civil Procedure, rule 52, 18 U.S.C. following section 723c. District of Columbia v. Pace, 64 S.Ct. 406, 1944 U.S. LEXIS 1145 (U.S. Dist. Col. 1944).

District of Columbia Tax Court's findings must be accepted unless they are clearly erroneous. D.C. Code § 47-2404(a). District of Columbia v. Neyman, 417 F.2d 1140, 1969 U.S. App. LEXIS 12666 (C.A.D.C. 1969).

In proceeding for review of decision of District of Columbia Board of Tax Appeals that decedent died domiciled in District of Columbia so as to subject his property to inheritance taxes imposed by District of Columbia Code, and that decedent had not retained domicile in state from which he had come to District of Columbia to work for the Government, findings of Board were required to be accepted when not clearly wrong. D.C. Code 1940, §§ 47-1601, 47-2404. Weitknecht v. District of Columbia, 195 F.2d 570, 1952 U.S. App. LEXIS 2989 (C.A.D.C. 1952).

Where Board of Tax Appeals held that District of Columbia might impose gross receipts tax on sale of directories to telephone companies outside of the district, but made no specific finding on question of when and where title in the directories passed, and record did not show where it passed, Court of Appeals would remand case to the board for findings, on telephone company's appeal from order imposing tax. D.C. Code 1940, §§ 28-1203, 47-1701, 47-2403, 47-2404. District of Columbia v. Chesapeake & Potomac Tel. Co., 179 F.2d 814, 1950 U.S. App. LEXIS 2277 (C.A.D.C. 1950).

A finding of fact by Board of Tax Appeals for District of Columbia will not be disturbed on appeal unless clearly erroneous. Connecticut

Ave. Cafe v. District of Columbia, 169 F.2d 304, 1948 U.S. App. LEXIS 2211 (1948).

In an appeal from a decision of the Superior Court Tax Division in a civil tax assessment case, the Court of Appeals adheres to the standard of review applicable to other decisions of the Superior Court in civil cases tried without a jury; it will not disturb the factual findings of the trial court unless they are plainly wrong or without support in the record. Bender v. District of Columbia, 804 A.2d 267, 2002 D.C. App. LEXIS 389 (2002).

In tax assessment cases, the trial court's factual findings are binding upon reviewing court unless they are clearly erroneous; if the findings are acceptable, reviewing court will not disturb the trial court's judgment unless it is plainly wrong or without evidence to support it. Square 345 Assocs. Ltd. Pshp. v. District of Columbia, 721 A.2d 963, 1998 D.C. App. LEXIS 238 (1998).

Before appellate court can properly review trial court's approval of particular tax appraisal, trial court must provide written findings of facts sufficient to explain why court adopted particular appraisal it relied upon. D.C. Code 1981, § 47-3303. George Washington University v. District of Columbia, 563 A.2d 759, 1989 D.C. App. LEXIS 172 (1989).

Trial court's adoption of valuation of property, based upon report of one appraiser, was invalid because it was not supported by findings of fact enabling appellate review to be conducted. D.C. Code 1981, § 47-3303. George Washington University v. District of Columbia, 563 A.2d 759, 1989 D.C. App. LEXIS 172 (1989).

In reviewing appeals from Tax Division, Court of Appeals applies same standard of review applicable in other decisions of court in civil cases tried without jury, that is, Court will abide by trial court's factual findings unless they are "clearly erroneous," or unless finding is "plainly wrong or without evidence to support it." D.C. Code 1981, §§ 17-305(a), 47-3304(a). Hutchison Bros. Excavating Co. v. District of Columbia, 511 A.2d 3, 1986 D.C. App. LEXIS 350 (1986).

In considering appeals from tax division of superior court, Court of Appeals will not disturb factual findings of trial court unless they are clearly erroneous or unless trial court's judgment is plainly wrong or without evidence to support it. District of Columbia v. National Bank of Washington, 431 A.2d 1, 1981 D.C. App. LEXIS 279 (1981).

#### In general.

The District of Columbia Tax Court's conclusions of law, even if considered factual, are not binding on Court of Appeals if clearly erroneous. D.C. Code 1951, § 47-2404(a), as amended by Act July 10, 1952, § 3(b), 66 Stat. 544;



Fed.Rules Civ.Proc. rule 52(a), 18 U.S.C. District of Columbia v. Seven-Up Washington, 214 F.2d 197, 1954 U.S. App. LEXIS 4658 (C.A.D.C. 1954).

The United States Court of Appeals for the District of Columbia, upon finding invalid the prevailing administrative practice in assessment of gross earnings tax against banks in District of Columbia, remanded case with instructions to cancel assessment unless tax assessor upon re-examination of entire subject removed discriminations. D.C. Code 1940, §§ 47—1701, 47—1703. *Hamilton Nat. Bank v. District of Columbia*, 156 F.2d 843, 1946 U.S. App. LEXIS 3149 (1946).

The trial court's grant of summary judgment will be set aside only for errors of law. *Square 345 Ltd. P'ship v. District of Columbia*, 927 A.2d 1020, 2007 D.C. App. LEXIS 264 (2007).

Evidentiary ruling by a trial judge on the relevancy of a particular item is a highly discretionary decision that will be upset on appeal only upon a showing of grave abuse. *Square 345 Assocs. Ltd. Pshp. v. District of Columbia*, 721 A.2d 963, 1998 D.C. App. LEXIS 238 (1998).

Proposed electoral initiative, to create Office of Public Advocate for Assessments and Taxation (OPA) with authority to appear and advocate on behalf of interest of public and general taxpayers of District of Columbia in administrative tax assessment proceedings and to appeal tax assessments by mayor to superior court and Court of Appeals, did not impermissibly infringe on mayor's responsibility for assessment of taxable property in violation of Home Rule Act. D.C. Code 1981, §§ 1-1320(b)(1), 47-310(a)(5). *Hessey v. Burden*, 584 A.2d 1, 1990 D.C. App. LEXIS 296 (1990), remanded by 615 A.2d 562, 1992 D.C. App. LEXIS 280 (D.C. 1992).

Proposed electoral initiative, to create Office of Public Advocate for Assessments and Taxation (OPA) with authority to appear and advocate on behalf of interest of public and general taxpayers of District of Columbia in administrative tax assessment proceedings and to appeal tax assessments by mayor to superior court and Court of Appeals, would not impermissibly expand jurisdiction of courts in violation of Home Rule Act. D.C. Code 1981, §§ 1-233(a)(4), 1-1320(b)(1). *Hessey v. Burden*, 584 A.2d 1, 1990 D.C. App. LEXIS 296 (1990), remanded by 615 A.2d 562, 1992 D.C. App. LEXIS 280 (D.C. 1992).

Except in cases of absolute exemption, the tax exemption in each year is dependent on the use to which property is put, and original determination of exemption or absence thereof is largely an administrative question for the

assessing authorities, and administrative review is available to the Tax Court and review of its decision is available in the United States Court of Appeals for the District of Columbia. D.C. Code 1951, §§ 47-801a, 47-801e, 47-2404. *Workshop Center of the Arts v. District of Columbia*, 145 A.2d 571, 1958 D.C. App. LEXIS 283 (Cr.App. 1958).

#### Questions presented.

Refund and appeal procedures in District of Columbia Court Reform and Criminal Procedure Act do not preclude litigant from raising federal statutory and constitutional claims in District of Columbia courts, with ultimate review of federal claims by United States Supreme Court available by writ of certiorari. *Jenkins v. Washington Convention Ctr.*, 236 F.3d 6, 2001 U.S. App. LEXIS 576 (C.A.D.C. 2001).

Where, after taxpayer had been taxed on basis of his equitable interest in marginal stocks, taxing authorities determined that marginal stocks were taxable to extent of their full value and made a reassessment, taxpayer paid tax under protest and instituted proceedings to recover the tax, questions presented by appeal from decision against the taxpayer was whether the new assessment was made without authority of law. D.C. Code 1929, T. 20, § 769; D.C. Code Supp. IV 1938, T. 20, §§ 975, 977. *Hunt v. District of Columbia*, 108 F.2d 10, 1939 U.S. App. LEXIS 4637 (1939).

#### Record on appeal.

Property taxpayer did not frame and present question of propriety of valuation method to trial court in manner sufficient either to require explicit decision by court or to create record for appeal. *Safeway Stores, Inc. v. District of Columbia*, 525 A.2d 207, 1987 D.C. App. LEXIS 345 (1987).

#### Timeliness of appeal.

Where District of Columbia Board of Tax Appeals on April 30, 1951, rendered decision on corporation's appeal in respect to business privilege tax, and corporation filed review petition which was served on District of Columbia on May 31 shortly before Board closed its office at 4:45 p. m., and the District with knowledge of sole member of Board, who had been consulted by telephone at his home, put cross-petition for review under door of Board's office an hour later, District's cross-petition was timely filed within statute requiring petition for review to be filed by District or taxpayer within 30 days after decision. D.C. Code 1951, § 47-2404(a). *Owens-Illinois Glass Co. v. District of Columbia*, 204 F.2d 29, 1953 U.S. App. LEXIS 2387 (C.A.D.C. 1953).

§ 47-3305. Appeals of real estate assessments.

(a) Repealed.

(b) Repealed.

(c) Any person aggrieved by any reassessment made in pursuance of § 47-831, may within 6 months after notice of said reassessment, appeal from said reassessment in the same manner and to the same extent as provided in §§ 47-3303 and 47-3304.

(d) Any person aggrieved by a reassessment or redistribution made pursuant to § 47-834, may within 6 months after notice of such reassessment or redistribution, appeal from such reassessment or redistribution in the same manner and to the same extent as provided in §§ 47-3303 and 47-3304.

(e) If BNA and BNAW are aggrieved by any assessment of real property tax, penalty, and interest on the subject real property made in pursuance of § 47-845.01(h), BNA and BNAW may within 6 months after notice of said assessment, appeal from the assessment in the same manner and to the same extent as provided in §§ 47-3303 and 47-3304.

(Aug. 17, 1937, 50 Stat. 692, ch. 690, title IX, § 5; May 16, 1938, 52 Stat. 372, ch. 223, § 8; July 26, 1939, 53 Stat. 1109, ch. 367, title IV, § 5(b); July 10, 1952, 66 Stat. 544, ch. 649, § 3(c); July 29, 1970, 84 Stat. 580, Pub. L. 91-358, title I, § 161(a)(5); Sept. 3, 1974, 88 Stat. 1065, Pub. L. 93-407, title IV, § 474(g); Jan. 3, 1975, 88 Stat. 2177, Pub. L. 93-635, § 9; Mar. 17, 1993, D.C. Law 9-241, § 6, 40 DCR 629; June 14, 1994, D.C. Law 10-127, § 4(b), 41 DCR 2050; Apr. 9, 1997, D.C. Law 11-250, § 3, 44 DCR 1253; Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 502(aa), 48 DCR 334.)

**Cross references.** — Board established, appeal of real property assessments, equalizations, valuations or classifications, see § 47-825.01.

**Prior Codifications.** — 1981 Ed., § 47-3305.

1973 Ed., § 47-2405.

**Effect of amendments.** — D.C. Law 13-305 repealed subsecs. (a) and (b) which had read:

“(a) Any person aggrieved by any assessment or valuation made in pursuance of § 47-829 between January 1 and June 30 may, within 6 months after April 15 following the year in which said valuation or assessment is made, appeal from such assessment or valuation in the same manner and to the same extent as provided in §§ 47-3303 and 47-3304; provided, however, that if the taxpayer shall be notified in writing not later than September 1st of a particular year of the valuation of the real estate valued in accordance with § 47-829, such taxpayer shall first make a complaint to the Board of Real Property Assessments and Appeals respecting such assessment as herein provided.

“(b) Any person aggrieved by any assessment made in pursuance of § 47-830 may, within 6 months after April 15th of the year in which

such assessment is made, appeal from such assessment in the same manner and to the same extent as provided in §§ 47-3303 and 47-3304; provided, however, that if the taxpayer shall be notified in writing not later than March 1st of a particular year of the valuation of the real estate valued in accordance with § 47-830, such taxpayer shall first make a complaint to the Board of Real Property Assessments and Appeals respecting such assessment as herein provided.”

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 3 of BNA Washington Inc., Real Property Tax Deferral Temporary Amendment Act of 1996 (D.C. Law 11-219, April 9, 1997, law notification 44 DCR 2577).

For temporary (225 day) amendment of section, see § 3 of BNA Washington Inc., Real Property Tax Deferral Temporary Amendment Act of 1996 (D.C. Law 12-18, September 12, 1997, law notification 44 DCR 5460).

For temporary (225 day) amendment of section, see § 2(z) of Real Property Tax Clarity and Litter Control Administration Temporary Amendment Act of 2001 (D.C. Law 14-8, June 13, 2001, law notification 48 DCR 5916).

**Emergency legislation.** — For temporary amendment of section, see § 3 of the BNA



Washington, Inc., Real Property Tax Deferral Emergency Amendment Act of 1996 (D.C. Act 11-365, August 15, 1996, 43 DCR 4588), see § 3 of the BNA Washington, Inc., Real Property Tax Deferral Congressional Adjournment Emergency Amendment Act of 1996 (D.C. Act 11-440, December 5, 1996, 44 DCR 6658), § 3 of the BNA Washington, Inc., Real Property Tax Deferral Congressional Review Emergency Amendment Act of 1996 (D.C. Act 11-475, December 30, 1996, 44 DCR 200), and § 3 of the BNA Washington, Inc., Real Property Tax Deferral Emergency Amendment Act of 1997 (D.C. Act 12-53, March 31, 1997, 44 DCR

**Legislative history of Law 9-241.** — For legislative history of D.C. Law 9-241, see Historical and Statutory Notes following § 47-3301.

**Legislative history of Law 10-127.** — Law 10-127, the "Real Property Statutory and Filing Deadlines Conformity Amendment Act of 1994," was introduced in Council and assigned Bill No. 10-450, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on February 1,

1994, and March 22, 1994, respectively. Signed by the Mayor on April 13, 1994, it was assigned Act No. 10-221 and transmitted to both Houses of Congress for its review. D.C. Law 10-127 became effective on June 14, 1994.

**Legislative history of Law 11-250.** — Law 11-250, the "BNA Washington, Inc., Real Property Tax Deferral Amendment Act of 1996," was introduced in Council and assigned Bill No. 11-818, which was referred to the Committee on the Whole. The Bill was adopted in first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-514 and transmitted to both Houses of Congress for its review. D.C. Law 11-250 became effective on April 9, 1997.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor's notes.** — Temporary repeal of D.C. Act 11-433: For temporary repeal of the BNA Washington, Inc., Real Property Tax Deferral Temporary Amendment Act of 1996 (D.C. Act 11-433, October 18, 1996, 43 DCR 6176), see § 9 of D.C. Law 12-18.

## CASE NOTES

### ANALYSIS

Costs and attorney fees.  
Equitable remedies.  
Jurisdiction.  
Other remedies.  
Powers and duties of board of tax appeals.  
Powers and duties of judiciary.  
Time to appeal.

### Costs and attorney fees.

Common benefit exception, to general American rule which, in absence of statutorial authorization, prohibits an award of attorney fees to a successful litigant, did not authorize an award of attorney fees out of District of Columbia public treasury to successful taxpayer-litigants in actions against the District, where the benefits could not be traced to the entire tax-paying population of the District and the costs could not be shifted with any exactitude to that population. *District of Columbia v. Green*, 381 A.2d 578, 1977 D.C. App. LEXIS 273 (1977).

The fact that successful taxpayer-litigants against District of Columbia prevented the collection of illegally imposed taxes, rather than required their refund after collection, could not, in principle, defeat their recovery of attorney fees as successful litigants; thus, the common fund or common benefit exception to general American rule which, in absence of statutory authorization, prohibits an award of attorney fees to a successful litigant, could be applied on basis of tax savings realized by affected taxpayers and trial court could exercise jurisdiction

over District of Columbia to require collection of appropriate fees from the benefitted taxpayers, unless such course of action was otherwise prohibited or unwarranted. *District of Columbia v. Green*, 381 A.2d 578, 1977 D.C. App. LEXIS 273 (1977).

Since it was certain that as a result of successful taxpayer-litigants' efforts reduced tax bills were sent to identifiable taxpayers and since same records used for identification should reveal the precise amount of the savings, that is, difference between the first bill and the second, the benefits could be traced with more than "some accuracy" thus meeting one criterion for award of attorney fees under common fund or common benefit exception to general American rule which, in absence of statutory authorization, prohibits an award of attorney fees to a successful litigant. *District of Columbia v. Green*, 381 A.2d 578, 1977 D.C. App. LEXIS 273 (1977).

### Equitable remedies.

In case wherein taxpayers, who did not appeal within permitted time to board of equalization and review, sought refund of portion of taxes paid due to change in level of assessment from 55% to 60% of estimated value as part of "stairstep" approach to achieve phased increase in debasement factor for single-family residential properties, equitable intervention was not justified on theory that district officials' concealment of "stairstep" plan prevented taxpayers from pursuing administrative remedies, in

light of fact that other taxpayers were able to discover "stairstep" plan while pursuing administrative remedies. D.C. Code §§ 47-646(i), 47-709, 47-2405, 47-2407. District of Columbia v. Keyes, 362 A.2d 729, 1976 D.C. App. LEXIS 340 (1976), writ of certiorari denied by 430 U.S. 968, 97 S. Ct. 1651, 52 L. Ed. 2d 360, 1977 U.S. LEXIS 1500 (1977).

Even if it were appropriate to apply principles of equity in uncertified class action, in which taxpayers sought refund of \$1.1 million to \$1.6 million in taxes paid due to certain change in level of assessment and in which taxpayers alleged that District's treatment of the tax matter in question was not characterized by candor or adherence to principles of good fiscal management, award of such refunds on equitable principles would not have been justified, in that adverse impact of refunds on citizenry outweighed economic interest of plaintiff taxpayers. D.C. Code §§ 47-646(i), 47-709, 47-2405, 47-2407, 47-2410. District of Columbia v. Keyes, 362 A.2d 729, 1976 D.C. App. LEXIS 340 (1976), writ of certiorari denied by 430 U.S. 968, 97 S. Ct. 1651, 52 L. Ed. 2d 360, 1977 U.S. LEXIS 1500 (1977).

Where real property owners who had not sought administrative review of District of Columbia tax assessments were excused from so doing because of lack of knowledge that debase-ment factor had been raised, those property owners who had sought administrative review of assessments would not be required to wait statutory period and pay tax before applying for relief by injunction. D.C. Code §§ 47-709, 47-2403 to 47-2405, 47-2410. District of Columbia v. Green, 310 A.2d 848, 1973 D.C. App. LEXIS 370 (1973).

Where taxing officials did not disclose change in assessment levels until after time for administrative review of District of Columbia tax assessments had passed, affected real property owners were not barred from seeking injunctive relief by their failure to exhaust administrative remedies. D.C. Code §§ 47-709, 47-2403 to 47-2405, 47-2410. District of Columbia v. Green, 310 A.2d 848, 1973 D.C. App. LEXIS 370 (1973).

### Jurisdiction.

Where taxpayers paid first half of real estate taxes levied for 1969 fiscal year before petitioning District of Columbia Tax Court on December 30, 1968 for review of underlying assessment but did not pay second half of challenged taxes until March 26, 1969, failure of taxpayers to pay all of challenged taxes levied for the entire fiscal year in question prior to time their appeal was filed deprived Tax Court of jurisdiction over any and all of the taxes in issue. D.C. Code §§ 47-501, 47-702, 47-708, 47-709, 47-1001a, 47-1209, 47-2402, 47-2403, 47-2405, 47-2413(c). District of Columbia v. Berenter, 466

F.2d 367, 1972 U.S. App. LEXIS 8260 (C.A.D.C. 1972).

Subject matter jurisdiction of superior court to grant refund for taxes illegally or erroneously assessed and voluntarily paid does not attach unless taxpayer has made a complaint to board of equalization and review. D.C. Code §§ 47-646(i), 47-709, 47-2405, 47-2407. District of Columbia v. Keyes, 362 A.2d 729, 1976 D.C. App. LEXIS 340 (1976), writ of certiorari denied by 430 U.S. 968, 97 S. Ct. 1651, 52 L. Ed. 2d 360, 1977 U.S. LEXIS 1500 (1977).

### Other remedies.

Where before taxpayers elected to invoke appeal procedure to District of Columbia Tax Court for review of underlying assessment of real estate taxes they could have chosen to utilize common-law remedies expressly available under statute but once they elected to file an appeal they apparently lost that right, though taxpayers might now be without a remedy, it was due to their own failure to comply with jurisdictional requirements of procedure they elected to invoke and not due to any deprivation occasioned by the statutory scheme itself, and prepayment requirement that taxpayer first pay the tax before appeal may be taken did not visit any undue hardship upon taxpayers and did not violate due process clause. D.C. Code §§ 47-709, 47-1209, 47-2403, 47-2405, 47-2413(c). District of Columbia v. Berenter, 466 F.2d 367, 1972 U.S. App. LEXIS 8260 (C.A.D.C. 1972).

### Powers and duties of board of tax appeals.

The Board of Tax Appeals for the District of Columbia is not a "court" but it is an "administrative agency" to which a taxpayer seeking relief may appeal an alleged excessive assessment of the Board of Equalization and Review. D.C. Code 1940, §§ 47-2403, 47-2405. Watrous v. District of Columbia, 135 F.2d 654, 1943 U.S. App. LEXIS 3346 (1943).

Where each lot was assessed at \$4,008 and Board of Tax Appeals found value in money of each lot to be \$3,500, the Board had power to reduce the assessment, notwithstanding absence of showing that assessment was capricious or arbitrary, under statute providing that the Board may affirm, cancel, reduce or increase assessment. D.C. Code 1940, §§ 47-604, 47-706, 47-708, 47-2403, 47-2405. Watrous v. District of Columbia, 135 F.2d 654, 1943 U.S. App. LEXIS 3346 (1943).

The Board of Tax Appeals for the District of Columbia has authority to reduce an assessment of real property made by Board of Assistant Assessors and approved by Board of Equalization and Review, notwithstanding the absence of a showing that the assessment is capricious or arbitrary or so at variance with



true value as to be actually or constructively fraudulent. D.C. Code 1940, §§ 47-2403, 47-2405. *Watrous v. District of Columbia*, 135 F.2d 654, 1943 U.S. App. LEXIS 3346 (1943).

#### **Powers and duties of judiciary.**

Although trial court found one component of property tax assessment invalid, it did not have to reject the entire assessment and either reinstate the most recent valid assessment or determine the valuation independently based on evidence presented at trial and without regard to the discredited assessment; rather, trial court could accept whatever elements of assessment it deemed valid and make necessary adjustments required by evidence adduced at trial. D.C. Code 1981, § 47-3305. *Square 345 Assocs. Ltd. Pshp. v. District of Columbia*, 721 A.2d 963, 1998 D.C. App. LEXIS 238 (1998).

Decision to leave in force assessments for previous year until District conducted valuation according to law for year in question was within court's discretion, where court reviewed reports submitted by taxpayers' experts and the District's assessor, found District's assessments for year in question flawed, cancelled assessments, and found evidence supporting taxpayer's proposed assessments unconvincing. D.C. Code 1981, §§ 47-3303, 47-3305. *Brisker v. District of Columbia*, 510 A.2d 1037, 1986 D.C. App. LEXIS 352 (1986).

Trial court could set figure it determined was lawful assessment of real property as basis for real estate taxes, that figure to apply until there had been lawful reassessment. D.C. Code 1981, §§ 47-3303, 47-3305. *National Trust for Historic Preservation v. District of Columbia*, 498 A.2d 574, 1985 D.C. App. LEXIS 507 (1985).

#### **Time to appeal.**

Time for appealing decision granting college a property tax exemption for certain real property and a refund of taxes paid thereon was measured not from entry of order granting an exemption and refund but from subsequent order setting amount of refund, especially as refund statute requires that the sum to be refunded be finally determined by the superior court. Tax Rule 15; Court of Appeals Rule 4(a)(1); D.C. Code 1981, § 47-3306. *District of Columbia v. Trustees of Amherst College*, 499 A.2d 918, 1985 D.C. App. LEXIS 555 (1985).

Requirement that petition contesting assessment of real property be filed within six months "after payment of the tax" applies to tax exempt property, and such six-month period runs from date of assessment. D.C. Code §§ 11-1101, 11-1201, 47-709, 47-801a(j), 47-801e, 47-2401 to 47-2407, 47-2403, 47-2405, 47-2413(c). *National Graduate University v. District of Columbia*, 346 A.2d 740, 1975 D.C. App. LEXIS 270 (1975).

### **§ 47-3306. Refund of erroneous collections.**

Any sum finally determined by the Superior Court to have been erroneously paid by or collected from the taxpayer shall be refunded by the District to the taxpayer from its annual appropriation for refunding erroneously paid taxes in said District.

(Aug. 17, 1937, 50 Stat. 692, ch. 690, title IX, § 7; May 16, 1938, 52 Stat. 374, ch. 223, § 8; July 29, 1970, 84 Stat. 574, Pub. L. 91-358, title I, § 156(g); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Alcoholic beverage control, tax appeals, see § 25-910.

Cigarette tax, appeals, see § 47-2413.

Crediting of tax refunds against delinquent taxes, notice, protest and appeals, see § 47-4431.

Gross sales tax, appeals, see § 47-2021.

Income and franchise taxes, right of aggrieved persons to judicial appeal, see § 47-1815.01.

Real property assessment and tax, taxable real estate, new structures, improvements, complaints, see § 47-829.

Recordation tax on deeds, deficiency assessment appeal, see § 42-1114.

Taxation of personal property, appeal from assessment or denial of claim for refund, see § 47-1533.

Taxation of personal property, rolling stock, appeals, see § 47-1512.

Traffic regulation, excise tax appeals, see § 50-2201.22.

Transfer tax on real property, appeal and judicial review, see § 47-914.

**Prior Codifications.** — 1981 Ed., § 47-3306.

1973 Ed., § 47-2407.

CASE NOTES

ANALYSIS

Equitable remedies.

In general.

Time for payment of refund.

**Equitable remedies.**

In case wherein taxpayers, who did not appeal within permitted time to board of equalization and review, sought refund of portion of taxes paid due to change in level of assessment from 55% to 60% of estimated value as part of "stairstep" approach to achieve phased increase in debasement factor for single-family residential properties, equitable intervention was not justified on theory that district officials' concealment of "stairstep" plan prevented taxpayers from pursuing administrative remedies, in light of fact that other taxpayers were able to discover "stairstep" plan while pursuing administrative remedies. D.C. Code §§ 47-646(i), 47-709, 47-2405, 47-2407. District of Columbia v. Keyes, 362 A.2d 729, 1976 D.C. App. LEXIS 340 (1976), writ of certiorari denied by 430 U.S. 968, 97 S. Ct. 1651, 52 L. Ed. 2d 360, 1977 U.S. LEXIS 1500 (1977).

Even if it were appropriate to apply principles of equity in uncertified class action, in which taxpayers sought refund of \$1.1 million to \$1.6 million in taxes paid due to certain

change in level of assessment and in which taxpayers alleged that District's treatment of the tax matter in question was not characterized by candor or adherence to principles of good fiscal management, award of such refunds on equitable principles would not have been justified, in that adverse impact of refunds on citizenry outweighed economic interest of plaintiff taxpayers. D.C. Code §§ 47-646(i), 47-709, 47-2405, 47-2407, 47-2410. District of Columbia v. Keyes, 362 A.2d 729, 1976 D.C. App. LEXIS 340 (1976), writ of certiorari denied by 430 U.S. 968, 97 S. Ct. 1651, 52 L. Ed. 2d 360, 1977 U.S. LEXIS 1500 (1977).

**In general.**

Refunds of taxes cannot be made absent authorizing statute. District of Columbia v. National Bank of Washington, 431 A.2d 1, 1981 D.C. App. LEXIS 279 (1981).

**Time for payment of refund.**

Trial court erred in directing District of Columbia to refund property tax overpayment within ten days of its order; the requisite finality is defined by statute and is not satisfied by mere lapse of ten days after entry of trial court's order. D.C. Code §§ 47-1016, 47-2404, 47-2407. District of Columbia v. Burlington Apartment House Co., 375 A.2d 1052, 1977 D.C. App. LEXIS 341 (1977).

**§ 47-3307. Certain suits forbidden.**

No suit shall be filed to enjoin the assessment or collection by the District of Columbia or any of its officers, agents, or employees of any tax.

(Aug. 17, 1937, 50 Stat. 692, ch. 690, title IX, § 10; May 16, 1938, 52 Stat. 375, ch. 223, § 8; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Alcoholic beverage control, tax appeals, see § 25-910.

Cigarette tax, appeals, see § 47-2413.

Crediting of tax refunds against delinquent taxes, notice, protest and appeals, see § 47-4431.

Gross sales tax, appeals, see § 47-2021.

Income and franchise taxes, right of aggrieved persons to judicial appeal, see § 47-1815.01.

Real property assessment and tax, new buildings, complaints and appeals, see § 47-830.

Recordation tax on deeds, deficiency assessment appeal, see § 42-1114.

Taxation of personal property, appeal from assessment or denial of claim for refund, see § 47-1533.

Taxation of personal property, rolling stock, appeals, see § 47-1512.

Traffic regulation, excise tax appeals, see § 50-2201.22.

Transfer tax on real property, appeal and judicial review, see § 47

**Prior Codifications.** — 1981 Ed., § 47-3307.

1973 Ed., § 47-2410.



## CASE NOTES

## ANALYSIS

Construction and application.  
 Equitable remedies generally.  
 Injunctive relief.  
 Jurisdiction.  
 Other available remedies.  
 Prior payment of taxes.

**Construction and application.**

While the Office of Administrative Hearings (OAH) is responsible for deciding administrative appeals involving a substantial number of different administrative agencies, it does not have the kind of subject matter expertise with respect to the Housing Authority Act and the Anti-Injunction Act that would warrant deference on the court's part when it interprets the statute. *D.C. Dep't of Consumer & Regulatory Affairs v. Stanford*, 978 A.2d 196, 2009 D.C. App. LEXIS 349 (2009).

Statutory scheme for appealing property tax assessments, which scheme required administrative appeals prior to bringing action in superior court, provided taxpayers an adequate remedy to challenge the reassessment of their property, and thus, exception to Anti-Injunction Act, which Act required court to dismiss a suit seeking declaratory or injunctive relief with respect to a tax assessment, did not apply to taxpayers' class action for tax refund. *District of Columbia v. Craig*, 930 A.2d 946, 2007 D.C. App. LEXIS 458 (2007), writ of certiorari denied by 554 U.S. 905, 128 S. Ct. 2947, 171 L. Ed. 2d 868, 2008 U.S. LEXIS 5003, 76 U.S.L.W. 3654 (2008).

Property tax assessment notices were not so deficient that the District had no chance of success in defending against taxpayers' due process claim in class action seeking tax refund, and thus, exception to Anti-Injunction Act, which Act required court to dismiss a suit seeking declaratory or injunctive relief with respect to a tax assessment, did not apply; the assessment notices explained to taxpayers that their properties had been reassessed for taxation purposes, explained how the taxpayers could learn more about their assessments, listed the proposed assessment value, and gave notice of taxpayers' appeal rights. *District of Columbia v. Craig*, 930 A.2d 946, 2007 D.C. App. LEXIS 458 (2007), writ of certiorari denied by 554 U.S. 905, 128 S. Ct. 2947, 171 L. Ed. 2d 868, 2008 U.S. LEXIS 5003, 76 U.S.L.W. 3654 (2008).

Taxpayers' class action challenging property tax assessments was precluded under the Anti-Injunction Act, where most of the members of the class failed to pursue the required administrative remedies before filing suit for tax refund. *District of Columbia v. Craig*, 930 A.2d

946, 2007 D.C. App. LEXIS 458 (2007), writ of certiorari denied by 554 U.S. 905, 128 S. Ct. 2947, 171 L. Ed. 2d 868, 2008 U.S. LEXIS 5003, 76 U.S.L.W. 3654 (2008).

The anti-injunction statute precludes a court from suspending the collection of taxes by the District except in extraordinary circumstances. *Agbaraji v. Aldridge*, 836 A.2d 567, 2003 D.C. App. LEXIS 688 (2003).

Anti-Injunction Act did not bar Court of Appeals from considering constitutionality of solid waste facility charge, which was deemed to be a tax rather than a fee, in solid waste and recycling hauler's action against District of Columbia under Solid Waste Facility Permit Act and Illegal Dumping Enforcement Act, where District did not raise Anti-Injunction Act prior to the filing of District's responsive and reply brief, inclusion of charge as a tax subject to anti-injunction prohibition was, at best, at margin of Anti-Injunction Act and did not appear to implicate key concerns, and trial court granted hauler injunctive relief because of a finding that hauler would suffer irreparable harm. *District of Columbia v. Eastern Trans-Waste of Md., Inc.*, 758 A.2d 1, 2000 D.C. App. LEXIS 192 (2000).

Test of whether action runs afoul of Anti-Injunction Act is not whether purpose of suit is solely to question liability of party requesting relief; rather, question is whether, because of action requested or taken, any assessment or collection of taxes will be prohibited. *D.C. Code 1981, § 47-3307. District of Columbia v. United Jewish Appeal Fed'n*, 672 A.2d 1075, 1996 D.C. App. LEXIS 31 (1996).

**Equitable remedies generally.**

Under the strictures of the Anti-Injunction Act, the Superior Court must dismiss a suit seeking declaratory or injunctive relief with respect to a tax assessment unless the court finds that the District has no possibility of prevailing; that determination must be made as of the time the suit was filed. *District of Columbia v. Craig*, 930 A.2d 946, 2007 D.C. App. LEXIS 458 (2007), writ of certiorari denied by 554 U.S. 905, 128 S. Ct. 2947, 171 L. Ed. 2d 868, 2008 U.S. LEXIS 5003, 76 U.S.L.W. 3654 (2008).

Outside the context of a tax refund suit, a plaintiff seeking declaratory or injunctive relief from a tax assessment can avoid the Anti-Injunction Act bar only by showing that two criteria are met: that there is no adequate legal remedy, and that under no circumstances could the government ultimately prevail. *District of Columbia v. Craig*, 930 A.2d 946, 2007 D.C. App. LEXIS 458 (2007), writ of certiorari denied by 554 U.S. 905, 128 S. Ct. 2947, 171 L.

Ed. 2d 868, 2008 U.S. LEXIS 5003, 76 U.S.L.W. 3654 (2008).

Under "extraordinary circumstances" exception to rule that anti-injunction statute precludes a court from suspending collection of taxes, equitable relief may be granted on challenge to tax collection only after a finding that (1) the District of Columbia could not prevail on the taxpayer's challenge to the tax under any circumstances, and (2) the taxpayer will suffer irreparable harm, with no adequate legal remedy, if his equitable action is barred. *Agbaraji v. Aldridge*, 836 A.2d 567, 2003 D.C. App. LEXIS 688 (2003).

If solid waste facility charge imposed on solid waste and recycling hauler constituted a tax, and hauler had not paid the tax, Court of Appeals could assert jurisdiction under Anti-Injunction Act and equitable relief could be obtained against collection of tax only if following requirements were met: (1) a finding that under no circumstances could the Government ultimately prevail, and (2) that equity jurisdiction otherwise exists, that is, proof of irreparable injury and inadequacy of legal remedy. *District of Columbia v. Eastern Trans-Waste of Md., Inc.*, 758 A.2d 1, 2000 D.C. App. LEXIS 192 (2000).

Anti-Injunction Act precludes court from suspending collection of taxes by district except in extraordinary circumstances, and statutory bar precludes declaratory as well as injunctive relief. D.C. Code 1981, § 47-3307. *District of Columbia v. United Jewish Appeal Fed'n*, 672 A.2d 1075, 1996 D.C. App. LEXIS 31 (1996).

Antinjunction statute applies to declaratory relief as well as injunctive relief in tax cases brought before payment of challenged assessment. D.C. Code 1981, § 47-3307. *Barry v. American Tel. & Tel. Co.*, 563 A.2d 1069, 1989 D.C. App. LEXIS 148 (1989).

Even if it were appropriate to apply principles of equity in uncertified class action, in which taxpayers sought refund of \$1.1 million to \$1.6 million in taxes paid due to certain change in level of assessment and in which taxpayers alleged that District's treatment of the tax matter in question was not characterized by candor or adherence to principles of good fiscal management, award of such refunds on equitable principles would not have been justified, in that adverse impact of refunds on citizenry outweighed economic interest of plaintiff taxpayers. D.C. Code §§ 47-646(i), 47-709, 47-2405, 47-2407, 47-2410. *District of Columbia v. Keyes*, 362 A.2d 729, 1976 D.C. App. LEXIS 340 (1976), writ of certiorari denied by 430 U.S. 968, 97 S. Ct. 1651, 52 L. Ed. 2d 360, 1977 U.S. LEXIS 1500 (1977).

Where facts of case were so exceptional and extraordinary as to merit equitable relief, court had jurisdiction to enjoin tax authorities from using unequal levels of assessment of esti-

mated market value of single-family dwellings for purposes of ascertaining District of Columbia real estate tax to be imposed on such dwellings despite provisions of statute stating that no suit might be filed to enjoin assessment of any tax. D.C. Code § 47-2410. *District of Columbia v. Green*, 310 A.2d 848, 1973 D.C. App. LEXIS 370 (1973).

### Injunctive relief.

Where plaintiff in action to enjoin sale of furniture and personal effects for property taxes had only a lien on property, so that plaintiff's claims furnished no basis for saying distraint was illegal, and Collector of Taxes had given assurances that sale would be subject to outstanding liens, sale would not be enjoined. D.C. Code 1940, §§ 47-1402, 47-2410. *Pearson v. Laughlin*, 190 F.2d 658, 1951 U.S. App. LEXIS 2474 (C.A.D.C. 1951).

Where District of Columbia was seeking to collect gross receipts tax from successor of recipient, action to enjoin distraint of successor's property to enforce payment could be maintained. Fed.Rules Civ.Proc. rule 12(b), 18 U.S.C.; D.C. Code 1951, § 47-2410; 26 U.S.C. (I.R.C.1954) § 7421; 18 U.S.C. § 1341. *D.C. Transit System, Inc. v. Pearson*, 149 F.Supp. 18, 1957 U.S. Dist. LEXIS 3812 (D.D.C.1957).

Statutory ban against injunction to restrain collection of taxes is more honored in the breach than in the observance, and upon a showing of considerations that appeal to discretion of court of equity, suit for injunction may be entertained and determination of validity of tax made in such summary and expeditious manner. Fed.Rules Civ.Proc. rule 12(b), 18 U.S.C.; D.C. Code 1951, § 47-2410, 26 U.S.C. (I.R.C.1954) § 7421; 18 U.S.C. § 1341. *D.C. Transit System, Inc. v. Pearson*, 149 F.Supp. 18, 1957 U.S. Dist. LEXIS 3812 (D.D.C.1957).

The Anti-Injunction Act, which prohibits filing of suits to enjoin assessment or collection by the District of Columbia or any of its officers, agents, or employees of any tax, precludes both injunctive relief and declaratory relief, the latter because it may, in every practical sense, operate to suspend collection of the state taxes until the litigation is ended in the very same manner an injunction would. D.C. Dept't of Consumer & Regulatory Affairs v. Stanford, 978 A.2d 196, 2009 D.C. App. LEXIS 349 (2009).

Superior court properly concluded that the anti-injunction statute prevented taxpayer from filing suit to enjoin the assessment of cost of corrections as a tax against his property where taxpayer had neither paid the tax nor shown evidence of exceptional circumstances; taxpayer presented no evidence that District of Columbia could not prevail on taxpayer's challenge to the tax under any circumstances and that he would suffer irreparable harm, with no



adequate legal remedy, if his equitable action was barred. *Agbaraji v. Aldridge*, 836 A.2d 567, 2003 D.C. App. LEXIS 688 (2003).

Injunctive relief against assessment or collection of a tax may be granted only in most exceptional and stringent circumstances. D.C. Code § 47-2410. *District of Columbia v. Keyes*, 362 A.2d 729, 1976 D.C. App. LEXIS 340 (1976), writ of certiorari denied by 430 U.S. 968, 97 S. Ct. 1651, 52 L. Ed. 2d 360, 1977 U.S. LEXIS 1500 (1977).

Where real property owners who had not sought administrative review of District of Columbia tax assessments were excused from so doing because of lack of knowledge that debase-ment factor had been raised, those property owners who had sought administrative review of assessments would not be required to wait statutory period and pay tax before applying for relief by injunction. D.C. Code §§ 47-709, 47-2403 to 47-2405, 47-2410. *District of Columbia v. Green*, 310 A.2d 848, 1973 D.C. App. LEXIS 370 (1973).

Where taxing officials did not disclose change in assessment levels until after time for administrative review of District of Columbia tax assessments had passed, affected real property owners were not barred from seeking injunctive relief by their failure to exhaust administrative remedies. D.C. Code §§ 47-709, 47-2403 to 47-2405, 47-2410. *District of Columbia v. Green*, 310 A.2d 848, 1973 D.C. App. LEXIS 370 (1973).

### **Jurisdiction.**

Office of Administrative Hearings (OAH) lacked jurisdiction under Anti-Injunction Act to remove tax lien against real property imposed after Department of Consumer and Regulatory Affairs completed repair work on property to correct violations of municipal housing code, or void past housing code violations, as Act prohibited filing of suits to enjoin assessment or collection by the District of Columbia or any of its officers, agents, or employees of any tax, and lien fell within scope of "any tax." *D.C. Dep't of Consumer & Regulatory Affairs v. Stanford*, 978 A.2d 196, 2009 D.C. App. LEXIS 349 (2009).

Under the Anti-Injunction Act, which precluded suits to enjoin the assessment or collection by the District or any of its officers, agents, or employees of any tax, the district court lacked jurisdiction to hear taxpayers' class action, seeking to invalidate the tax assessment of certain residential properties that contained lead contamination in pipes conveying water to their homes, in the absence of evidence that under no circumstances could the District prevail in a tax refund suit and evidence that taxpayers did not have an adequate legal remedy. *Tolu v. District of Columbia*, 906 A.2d 265, 2006 D.C. App. LEXIS 279 (2006).

Like the anti-injunction statute, the statutory provision allowing a person to appeal a tax assessment, as long as the appeal is brought within six months of the assessment and the subject tax is paid, deprives the Superior Court of jurisdiction over a taxpayer's appeal if the tax has not been paid. *Agbaraji v. Aldridge*, 836 A.2d 567, 2003 D.C. App. LEXIS 688 (2003).

Trial court's order to effect that none of past due taxes on property could be collected, even though intended as discovery sanction against district, violated Anti-Injunction Act; trial court was without jurisdiction to enjoin collection of taxes. D.C. Code 1981, § 47-3307. *District of Columbia v. United Jewish Appeal Fed'n*, 672 A.2d 1075, 1996 D.C. App. LEXIS 31 (1996).

Antiinjunction statute precluded exercise jurisdiction over constitutional challenge to gross receipts tax where taxpayers, who had not paid challenged assessment, failed to show that under no circumstances could District of Columbia have ultimately prevailed. D.C. Code 1981, § 47-3307. *Barry v. American Tel. & Tel. Co.*, 563 A.2d 1069, 1989 D.C. App. LEXIS 148 (1989).

### **Other available remedies.**

Where taxpayer had an adequate remedy at law by payment of the gross receipts tax, claim for refund, and either appeal to the District of Columbia Tax Court or civil action therein, suit for injunction against collection of the tax would not lie. D.C. Code 1951, § 47-2410. *D.C. Transit System, Inc. v. Pearson*, 250 F.2d 765, 1957 U.S. App. LEXIS 4200 (C.A.D.C. 1957).

Fact that owner of household furniture and personal effects, and that holder of lien on such personalty, considered costs incurred in proceedings for collection for personal property taxes against personalty to be excessive, did not provide basis to enjoin Collector of Taxes from having personalty sold for personal property taxes, at least where there was no showing that there were no appropriate remedies at law. D.C. Code 1940, §§ 47-1407, 47-2410. *Pearson v. Laughlin*, 190 F.2d 658, 1951 U.S. App. LEXIS 2474 (C.A.D.C. 1951).

Section 1983 did not confer jurisdiction on tax division to hear taxpayers' class action seeking property tax refund; section 1983 did not allow taxpayers to circumvent the Anti-Injunction Act, which required court to dismiss a suit seeking declaratory or injunctive relief with respect to a tax assessment, and taxpayers had an adequate legal remedy for challenging assessments by bringing administrative appeals. *District of Columbia v. Craig*, 930 A.2d 946, 2007 D.C. App. LEXIS 458 (2007), writ of certiorari denied by 554 U.S. 905, 128 S. Ct. 2947, 171 L. Ed. 2d 868, 2008 U.S. LEXIS 5003, 76 U.S.L.W. 3654 (2008).

Tax division of superior court could reach question of fact disputed by taxpayers, that is,

whether Board of Equalization and Review acted outside statutory deadline in issuing final decision certifying proposed higher assessments of real property; thus, taxpayers had adequate remedies at law and trial judge did not err in dismissing their suit in equity. D.C. Code 1981, §§ 47-825(g), 47-839. *National Trust for Historic Preservation v. District of Columbia*, 498 A.2d 574, 1985 D.C. App. LEXIS 507 (1985).

Correction of assessment of real property for purpose of real estate taxation, if correction was warranted, accompanying refund or credit, was adequate remedy for any shortcomings in rule-making procedures. *National Trust for Historic Preservation v. District of Columbia*, 498 A.2d 574, 1985 D.C. App. LEXIS 507 (1985).

**Prior payment of taxes.**

Only after a property owner has appealed to

the Board of Real Property Assessments and Appeals (BRPAA) and paid her taxes may she petition the Superior Court Tax Division for review and for a tax refund; subject matter jurisdiction of the Superior Court does not attach until that administrative review prerequisite has been satisfied. *District of Columbia v. Craig*, 930 A.2d 946, 2007 D.C. App. LEXIS 458 (2007), writ of certiorari denied by 554 U.S. 905, 128 S. Ct. 2947, 171 L. Ed. 2d 868, 2008 U.S. LEXIS 5003, 76 U.S.L.W. 3654 (2008).

Under Anti-Injunction Act, person must first pay the tax before challenging it, except in extraordinary circumstances. *District of Columbia v. Eastern Trans-Waste of Md., Inc.*, 758 A.2d 1, 2000 D.C. App. LEXIS 192 (2000).

**§ 47-3308. Manner of serving notices.**

Any notice authorized or required under the provisions of this chapter may be given by mailing the same to the person for whom it is intended, addressed to such person at the address given in any return filed by him, or, if no return has been filed, then to his last-known address. The proof of mailing of any notice mentioned in this chapter shall be presumptive evidence of the receipt of the same by the person to whom addressed. Any period of time which must be determined under the provisions of this chapter by the giving of notice shall commence to run from the date of mailing of such notice.

(Aug. 17, 1937, 50 Stat. 692, ch. 690, title IX, § 11; May 16, 1938, 52 Stat. 375, ch. 223, § 8; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Alcoholic beverage control, tax appeals, see § 25-910.

Cigarette tax, appeals, see § 47-2413.

Crediting of tax refunds against delinquent taxes, notice, protest and appeals, see § 47-4431.

Gross sales tax, appeals, see § 47-2021.

Income and franchise taxes, right of aggrieved persons to judicial appeal, see § 47-1815.01.

Inheritance and estate taxes, authority of Mayor to determine tax, deficiencies and appeals, see § 47-3717.

Recordation tax on deeds, deficiency assessment appeal, see § 42-1114.

Taxation of personal property, appeal from assessment or denial of claim for refund, see § 47-1533.

Taxation of personal property, rolling stock, appeals, see § 47-1512.

Toll telecommunication service tax, authority of Mayor to determine tax, deficiencies and appeals, see § 47-3908.

Traffic regulation, excise tax appeals, see § 50-2201.22.

Transfer tax on real property, appeal and judicial review, see § 47-914.

**Prior Codifications.** — 1981 Ed., § 47-3308.

1973 Ed., § 47-2411.

**§ 47-3309. Reference by Mayor to the Superior Court.**

In any matter affecting taxation, the determination of which is by law left to the discretion of the Mayor, the Mayor may, if he so elects, refer such matter to the Superior Court to make findings of fact and submit recommendations, such findings of fact and recommendations, if any, to be advisory only and not



binding on the Mayor, and shall be without prejudice to the Mayor to make such further and other inquiry and investigation concerning such matter as he in his discretion shall consider necessary or advisable.

(Aug. 17, 1937, 50 Stat. 692, ch. 690, title IX, § 13; July 26, 1939, 53 Stat. 1110, ch. 367, title IV, § 5(c); July 29, 1970, 84 Stat. 574, Pub. L. 91-358, title I, § 156(g); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3309. 1973 Ed., § 47-2412.

## § 47-3310. Overpayments; refund; appeal.

(a) Where there has been an overpayment of any tax, the amount of the overpayment shall be refunded to the taxpayer. No refund (other than inheritance and estate taxes) shall be allowed after 2 years from the date the tax is paid unless the taxpayer files a claim before the expiration of that period. The amount of refund of taxes (other than inheritance and estate taxes) shall not exceed the portion of the tax paid during the 2 years immediately preceding the filing of the claim or, if no claim is filed, then the 2 years immediately preceding the allowance of the refund. No refund of inheritance and estate taxes shall be allowed after 3 years from the date the tax is paid unless the taxpayer files a claim before the expiration of that period. The amount of refund of inheritance and estate taxes shall not exceed the portion of the tax paid during the 3 years immediately preceding the filing of the claim or, if no claim is filed, then during the 3 years immediately preceding the allowance of the refund. Every claim for refund must be in writing under oath, must state the specific grounds on which it is founded, and must be filed with the Mayor. If the Mayor disallows all or any part of the refund claim, he shall notify the taxpayer by registered or certified mail. After receiving notice of disallowance, if the claim is acted upon within 6 months of filing, or after the expiration of 6 months from the date of filing if the claim is not acted upon, the taxpayer may appeal as provided in §§ 47-3303 and 47-3304 of this title. This subsection does not apply to real estate taxes, alcoholic beverage tax, motor-vehicle fuel tax or to the taxes imposed by Chapter 18 of this title, or by Chapters 20 and 22 of this title, refunds of which are otherwise provided for by law.

(b) In any proceeding under this title the Superior Court has jurisdiction to determine whether there has been any overpayment of tax and to order that any overpayment be credited or refunded to the taxpayer, if a timely refund claim has been filed.

(c) Any other provision of law to the contrary notwithstanding, if it is determined by the Mayor or by the Superior Court that there has been an overpayment of any tax, whether as a deficiency or otherwise, interest shall be allowed and paid on the overpayment at the rate of 6% per annum from the date the overpayment was paid until the date of refund except:

(1) Interest shall be allowed and paid only from the date of filing a claim for refund or a petition to the Superior Court, as the case may be, on that part of any overpayment that was not assessed and then paid as a deficiency or as additional tax; and

(2) Interest shall be allowed and paid only up to 6 years from the date the vendor filed with the Mayor the bond or prepayment with surety approved by the Mayor on the part of any overpayment that was a bond or prepayment with surety approved by the Mayor, as required by § 26a(d) (1) of A Regulation Governing Vending Businesses in Public Space (Reg. 74-39; 24 DCMR 524.7), except no interest shall be allowed and paid for any months after December 31, 1993.

(d) For purposes of this section, any interest or penalties paid by the taxpayer in connection with an overpayment of tax shall be deemed to be a part of the overpayment of tax.

(Aug. 17, 1937, 50 Stat. 692, ch. 690, title IX, § 14; July 10, 1952, 66 Stat. 546, ch. 649, § 4; June 11, 1960, 74 Stat. 204, Pub. L. 86-507, § 1(56); June 27, 1960, 74 Stat. 224, Pub. L. 86-528, § 1; July 29, 1970, 84 Stat. 580, Pub. L. 91-358, title I, § 161(a)(7); Sept. 13, 1980, D.C. Law 3-92, § 601, 27 DCR 3390; July 24, 1982, D.C. Law 4-131, § 402, 29 DCR 2418; May 21, 1988, D.C. Law 7-121, § 3, 35 DCR 2695; Sept. 30, 1993, D.C. Law 10-25, § 114, 40 DCR 5489; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Certified mail return receipts as prima facie evidence of delivery, see § 14-506.

Gross sales tax, appeals, interest on overpayment, see § 47-2021.

**Prior Codifications.** — 1981 Ed., § 47-3310.

1973 Ed., § 47-2413.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 114 of Omnibus Budget Support Temporary Act of 1993 (D.C. Law 10-11, August 6, 1993, law notification 40 DCR 6213).

**Legislative history of Law 3-92.** — Law 3-92, the “District of Columbia Revenue Act of 1980,” was introduced in Council and assigned Bill No. 3-285, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 17, 1980 and July 1, 1980, respectively. Signed by the Mayor on July 9, 1980, it was assigned Act No. 3-214 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 4-131.** — For legislative history of D.C. Law 4-131, see Historical and Statutory Notes following § 47-3303.

**Legislative history of Law 7-121.** — Law 7-121, the “Vendors Regulation Amendment Act of 1988,” was introduced in Council and as-

signed Bill No. 7-303, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 1, 1988 and March 15, 1988, respectively. Signed by the Mayor on March 31, 1988, it was assigned Act No. 7-167 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 10-25.** — Law 10-25, the “Omnibus Budget Support Act of 1993,” was introduced in Council and assigned Bill No. 10-165, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on June 1, 1993, and June 29, 1993, respectively. Signed by the Mayor on July 16, 1993, it was assigned Act No. 10-57 and transmitted to both Houses of Congress for its review. D.C. Law 10-25 became effective on September 30, 1993.

**References in text.** — “This title”, referred to in subsection (b), is title IX of Act August 17, 1937, ch. 690, 50 Stat. 692, as added Act May 16, 1938, ch. 223, 52 Stat. 370.

**Editor’s notes.** — Applicability of 1980 amendment to refunds: Section 602 of the Act of September 13, 1980, D.C. Law 3-92, provided that the provisions of the 1980 amendment to this section shall apply only with respect to refunds for which both the claims for refund were filed and the liability for refund was determined (either by court action or administratively) after July 1, 1980.

## CASE NOTES

### ANALYSIS

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#### **Application for refund.**

Since trial court's decision upholding tax imposed on nonresident unincorporated professionals and personal service businesses was appealed and subject to reversal, and filing deadline for refunds for tax year in question did not expire until year and one-half after filing of order requiring individual administrative claims for limited group of taxpayers in class action, members of the class contesting such tax were not denied due process by being required to file individual administrative claims for refund of such tax, even though judgment of Court of Appeals holding such tax to be illegal was rendered after statutory period for filing such claims had expired, thereby depriving members of monetary benefits of judgment of Court of Appeals. D.C. Code 1973, § 47-1586j. District of Columbia v. Berenter, 466 F.2d 367, 1972 U.S. App. LEXIS 8260 (C.A.D.C. 1972).

#### **Construction and application.**

Statute requiring refund of overpayment of tax does not specify limitation period within which taxpayer must file action for refund; statute sets forth time frame within which Mayor or his designee must act on refund claim filed by taxpayer. D.C. Code 1981, § 47-3310(a). Askin v. District of Columbia, 728 A.2d 665, 1999 D.C. App. LEXIS 107 (1999).

Tax statutes are to be strictly construed. Kleiboemer v. District of Columbia, 458 A.2d 731, 1983 D.C. App. LEXIS 335 (1983), writ of certiorari denied by 465 U.S. 1024, 104 S. Ct. 1279, 79 L. Ed. 2d 683, 1984 U.S. LEXIS 1077, 52 U.S.L.W. 3610 (1984)supra.

Refunds of taxes cannot be made absent authorizing statute. District of Columbia v. National Bank of Washington, 431 A.2d 1, 1981 D.C. App. LEXIS 279 (1981).

Where no agreement existed between bank and union trust fund to provide union trust fund with some form of consideration in return for funds deposits, and damages award and subsequent settlement compensated fund for loss of income measured solely by hypothetical return on tax-free investments, not by bank's gain from its tortious use of deposits, bank's portrayal of settlement as "restoration of earnings," rather than as "interest" did not entitle bank to refund of tax paid on settlement payment. District of Columbia v. National Bank of Washington, 431 A.2d 1, 1981 D.C. App. LEXIS 279 (1981).

#### **Interest.**

Interest on amounts refunded to taxpayers, who successfully challenged tax imposed on nonresidential unincorporated professionals and personal service businesses and who did

not pay the tax because of an assessment of deficiency, ran from the respective dates they filed claims for refund, rather than the dates they paid the tax. D.C. Code 1973, § 47-2413(c). Kleiboemer v. District of Columbia, 458 A.2d 731, 1983 D.C. App. LEXIS 335 (1983), writ of certiorari denied by 465 U.S. 1024, 104 S. Ct. 1279, 79 L. Ed. 2d 683, 1984 U.S. LEXIS 1077, 52 U.S.L.W. 3610 (1984)supra.

Award of four percent interest on tax refund authorized by code was sufficient. D.C. Code 1981, § 47-3310(c). Andrews v. District of Columbia, 443 A.2d 566, 1982 D.C. App. LEXIS 327 (1982), writ of certiorari denied by 459 U.S. 909, 103 S. Ct. 216, 74 L. Ed. 2d 172, 1982 U.S. LEXIS 3852, 51 U.S.L.W. 3287 (1982).

#### **Limitation of actions, generally.**

Equitable tolling of statute of limitations governing individual administrative claims for refund of tax imposed on nonresident unincorporated professionals and personal service businesses was not appropriate, since final order of October 27, 1977, putting all affected taxpayers on notice that individual administrative claims were required for refunds, was not appealed, and the filing deadline for tax year in question did not expire until year and one-half after final order was filed. D.C. Code 1973, § 47-1586j. District of Columbia v. Berenter, 466 F.2d 367, 1972 U.S. App. LEXIS 8260 (C.A.D.C. 1972).

Petitioners' action in seeking notification for individual taxpayers of the requirement of filing individual administrative claims for refunds, and language stating that such claims were necessary contained in their motion for order compelling District of Columbia to include notice to taxpayers of such requirement, indicated that petitioners understood that such claims were necessary and that they, therefore, should have appealed final order putting all petitioners on notice that individual administrative claims were required for refunds to toll statute of limitations governing their individual claims for refund of tax imposed on nonresident unincorporated professionals and personal service businesses. D.C. Code 1973, § 47-1586j. District of Columbia v. Berenter, 466 F.2d 367, 1972 U.S. App. LEXIS 8260 (C.A.D.C. 1972).

#### **Other available remedies.**

Refund and appeal procedures in District of Columbia Court Reform and Criminal Procedure Act do not preclude litigant from raising federal statutory and constitutional claims in District of Columbia courts, with ultimate review of federal claims by United States Supreme Court available by writ of certiorari. Jenkins v. Washington Convention Ctr., 236 F.3d 6, 2001 U.S. App. LEXIS 576 (C.A.D.C. 2001).

Where before taxpayers elected to invoke appeal procedure to District of Columbia Tax Court for review of underlying assessment of real estate taxes they could have chosen to utilize common-law remedies expressly available under statute but once they elected to file an appeal they apparently lost that right, though taxpayers might now be without a remedy, it was due to their own failure to comply with jurisdictional requirements of procedure they elected to invoke and not due to any deprivation occasioned by the statutory scheme itself, and prepayment requirement that taxpayer first pay the tax before appeal may be taken did not visit any undue hardship upon taxpayers and did not violate due process clause. D.C. Code §§ 47-709, 47-1209, 47-2403, 47-2405, 47-2413(c). District of Columbia v. Berenter, 466 F.2d 367, 1972 U.S. App. LEXIS 8260 (C.A.D.C. 1972).

#### Res judicata.

Res judicata did not bar taxpayer's action seeking refund of recordation and transfer taxes in connection with taxpayer's purchase at foreclosure sale of condominium apartment, after entry of orders that action with respect to condominium was untimely, in taxpayer's prior "umbrella" action seeking refunds of various taxes and challenging certain assessments relating to number of different properties, where neither order disposed of "umbrella" action in its entirety; taxpayer could not forfeit right to contest substantive issue on the merits on account of his failure to appeal from nonfinal and nonappealable orders. D.C. Code 1981, § 47-3310(a). Askin v. District of Columbia, 728 A.2d 665, 1999 D.C. App. LEXIS 107 (1999).

Res judicata did not bar taxpayer's action seeking refund of recordation and transfer taxes in connection with taxpayer's purchase at foreclosure sale of condominium apartment, on basis that final appealable judgment was entered in taxpayer's prior "umbrella" action seeking refunds of various taxes and challenging certain assessments relating to number of different properties including apartment, where taxpayer filed present suit for refund more than three months before entry of "umbrella" suit judgment to which District hitched its star on appeal, and District cited only nonfinal, nonappealable orders from "umbrella" action in its motion to dismiss. D.C. Code 1981, § 47-3310(a). Askin v. District of Columbia, 728 A.2d 665, 1999 D.C. App. LEXIS 107 (1999).

#### Rules and regulations.

Correction of assessment of real property for purpose of real estate taxation, if correction was warranted, accompanying refund or credit, was adequate remedy for any shortcomings in rule-making procedures. National Trust for Historic Preservation v. District of Columbia,

498 A.2d 574, 1985 D.C. App. LEXIS 507 (1985).

#### Time for appeal.

Order of October 27, 1977, directing refund of tax imposed by city council on nonresident unincorporated professionals and personal service businesses, for limited group of taxpayers in class action, viz. 1975 fiscal-year basis taxpayers, constituted final order which should have been appealed if petitioners were to avail themselves of equitable tolling of statute of limitations in making their individual administrative claims for refunds, since the October 27 order put all affected taxpayers on notice that individual administrative claims were required for refunds. D.C. Code 1973, § 47-1586j. Kleiboemer v. District of Columbia, 466 A.2d 846, 1983 D.C. App. LEXIS 476 (1983), writ of certiorari denied by 465 U.S. 1024, 104 S. Ct. 1279, 79 L. Ed. 2d 683, 1984 U.S. LEXIS 1077, 52 U.S.L.W. 3610 (1984).

General three-year statute of limitations governs an appeal to superior court from denial of refund of taxes. D.C. Code §§ 12-301(8), 47-2403. Carter-Lanhardt, Inc. v. District of Columbia, 413 A.2d 916, 1980 D.C. App. LEXIS 277 (1980).

It is not reasonable for anyone (especially an attorney) to rely upon the personal word of the Deputy Recorder of Deeds for definitive advice as the deadline for seeking a judicial remedy. Askin v. District of Columbia, 123 WLR 1605 (Super. Ct. 1995).

#### Time for filing for refund.

Where claim for refund of a District of Columbia estate tax was not filed within two years of payment of the tax, Tax Court had no jurisdiction to decide anything, and if it had jurisdiction it had no authority to do otherwise than deny petitioner's claim in view of statute providing no refund of an overpayment shall be allowed after two years from date the tax is paid unless before the expiration of such period, claim therefor is filed by the taxpayer. D.C. Code 1951, § 47-2413. American Sec. & Trust Co. v. District of Columbia, 235 F.2d 19, 1956 U.S. App. LEXIS 3807 (C.A.D.C. 1956).

Timely filing at administrative level of individual claims for refund of taxes imposed on nonresident unincorporated professionals and personal service businesses was a prerequisite to recovery of refund following Court of Appeals' decision that the tax was unlawful, and claim for refund filed by one of the plaintiffs on behalf of the entire class did not satisfy that requirement, even though the District of Columbia had "notice" of the class action challenging the legality of the tax. Kleiboemer v. District of Columbia, 458 A.2d 731, 1983 D.C. App. LEXIS 335 (1983), writ of certiorari denied by 465 U.S. 1024, 104 S. Ct. 1279, 79 L. Ed. 2d



683, 1984 U.S. LEXIS 1077, 52 U.S.L.W. 3610 (1984)*supra*.

Compliance with statute setting deadline for filing of individual claims for tax refunds at administrative level was not tolled solely by reason of fact that those challenging tax imposed on nonresidential unincorporated professionals and personal service businesses pursued their challenge to the validity of tax. D.C. Code 1973, § 47-1586j; D.C. Code 1981, § 11-721(a). *Kleiboemer v. District of Columbia*, 458 A.2d 731, 1983 D.C. App. LEXIS 335 (1983), writ of certiorari denied by 465 U.S. 1024, 104 S. Ct. 1279, 79 L. Ed. 2d 683, 1984 U.S. LEXIS 1077, 52 U.S.L.W. 3610 (1984)*supra*.

Reference in statute dealing with refund claims to the right of the taxpayer to appeal as provided in sections relating to assessments was meant to set forth the nature of the judicial remedy available to the taxpayer claiming a refund in the event that he was unsuccessful in obtaining the refund from the Department of Finance and Revenue; it does not impose upon the refund claimant the six month time limitation contained in statutes dealing with appeals from an assessment. D.C. Code §§ 47-2403, 47-2413(a). *Carter-Lanhardt, Inc. v. District of Columbia*, 413 A.2d 916, 1980 D.C. App. LEXIS 277 (1980).

CHAPTER 34. MISCELLANEOUS PROVISIONS.

Sec.	Sec.
47-3401. Transitional provision for short-term advances.	47-3404. Annual payment by the United States — Appropriations — Deficiency.
47-3401.01. Intermediate-term advances for liquidation of deficit.	47-3405, 47-3406. [Repealed].
47-3401.02. Short-term advances for seasonal cash-flow management.	47-3406.01. [Repealed].
47-3401.03. Security for advances.	47-3406.02. Federal contribution to operations of government of Nation's Capital.
47-3401.04. Reimbursement to the Treasury.	47-3407. Regulations.
47-3401.05. Definitions.	47-3408. Severability.
47-3402. Annual payment by the United States — Appropriations — Generally.	47-3409. Divulging information obtained from Internal Revenue Service prohibited; penalties.
47-3403. Annual payment by the United States — Appropriations — Employee pay increases.	47-3410. Effect of District of Columbia Tax Enforcement Act of 1982.

§ 47-3401. Transitional provision for short-term advances.

(a) *Transitional short-term advances made before October 1, 1995. —*

(1) *In general. —* If the conditions in paragraph (2) of this subsection are satisfied, the Secretary shall make an advance of funds from time to time, out of any money in the Treasury not otherwise appropriated, for the purpose of assisting the District government in meeting its general expenditures, as authorized by Congress.

(2) *Conditions to making any transitional short-term advance before October 1, 1995. —* The Secretary shall make an advance under this subsection if the following conditions are satisfied:

(A) The Mayor delivers to the Secretary a requisition for an advance under this section;

(B) As of the date on which the requisitioned advance is to be made, the Authority has not approved a financial plan and budget for the District government as meeting the requirements of the District of Columbia Financial Responsibility and Management Assistance Act of 1995;

(C) The date on which the requisitioned advance is to be made is not later than September 30, 1995;

(D) The District government has delivered to the Secretary:

(i) A schedule setting forth the anticipated timing and amounts of requisitions for advances under this subsection; and

(ii) Evidence demonstrating to the satisfaction of the Secretary that the District government is effectively unable to obtain credit in the public credit markets or elsewhere in sufficient amounts and on sufficiently reasonable terms to meet the District government's financing needs;

(E) The Secretary determines that there is reasonable assurance of reimbursement for the advance from the amount authorized to be appropriated as the annual Federal payment to the District of Columbia under title V of the District of Columbia Home Rule Act for the fiscal year ending September 30, 1996; and

(F) Except during the 45-day period beginning on the date of the



appointment of the members of the Authority, the Authority makes the findings described in § 47-392.04.

(3) *Amount of any transitional short-term advance made before October 1, 1995.* —

(A) *In general.* — Except as provided in subparagraph (C) of this paragraph, if the conditions described in subparagraph (B) of this paragraph are satisfied, each advance made under this subsection shall be in the amount designated by the Mayor in the Mayor's requisition for such advance, except that:

(i) The total amount requisitioned under this subsection during the 30-day period which begins on the date of the first requisition made under this subsection may not exceed 33⅓% of the fiscal year 1995 limit;

(ii) The total amount requisitioned under this subsection during the 60-day period which begins on the date of the first requisition made under this subsection may not exceed 66⅔% of the fiscal year 1995 limit; and

(iii) The total amount requisitioned under this subsection after the expiration of the 60-day period which begins on the date of the first requisition made under this subsection may not exceed 100% of the fiscal year 1995 limit.

(B) *Conditions applicable to designated amount.* — Subparagraph (A) of this paragraph applies if the Mayor determines that the amount designated in the Mayor's requisition for such advance is needed to accomplish the purpose described in paragraph (1) of this subsection, and (except during the 45-day period beginning on the date of the appointment of the members of the Authority) the Authority approves such amount.

(C) *Aggregate maximum amount outstanding.* — The sum of the anticipated principal and interest requirements of all advances made under this subsection may not be greater than the fiscal year 1995 limit.

(D) *Fiscal year 1995 limit described.* — In this paragraph, the "fiscal year 1995 limit" means the amount authorized to be appropriated to the District of Columbia as the annual federal payment to the District of Columbia under title V of the District of Columbia Home Rule Act for the fiscal year ending September 30, 1996.

(4) *Maturity of any transitional short-term advance made before October 1, 1995.* —

(A) *In general.* — Except as provided in subparagraph (B) of this paragraph, each advance made under this subsection shall mature on the date designated by the Mayor in the Mayor's requisition for such advance.

(B) *Latest permissible maturity date.* — Notwithstanding subparagraph (A) of this paragraph, the maturity date for any advance made under this subsection shall not be later than October 1, 1995.

(5) *Interest rate.* — Each advance made under this subsection shall bear interest at an annual rate equal to the rate determined by the Secretary at the time that the Secretary makes such advance taking into consideration the prevailing yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such advance, plus ⅛ of 1%.

(6) *Deposit of advances.* —

(A) *In general.* — Except as provided in subparagraph (B) of this paragraph, each advance made under this subsection for the account of the District government shall be deposited by the Secretary into such account as is designated by the Mayor in the Mayor's requisition for such advance.

(B) *Exception.* — Notwithstanding subparagraph (A) of this paragraph, if (in accordance with § 47-392.04(b)(2) the Authority delivers a letter requesting the Secretary to deposit all advances made under this subsection for the account of the District government in an escrow account held by the Authority, each advance made under this subsection for the account of the District government after the date of such letter shall be deposited by the Secretary into the escrow account specified by the Authority in such letter.

(b) *Transitional short-term advances made on or after October 1, 1995, and before February 1, 1996.* —

(1) *In general.* — If the conditions in paragraph (2) of this subsection are satisfied, the Secretary shall make an advance of funds from time to time, out of any money in the Treasury not otherwise appropriated, for the same purpose as advances are made under subsection (a) of this section.

(2) *Terms and conditions.* —

(A) *In general.* — Except as provided in subparagraph (B), paragraphs (2), (4), and (5) of section (a) of this section (other than subparagraph (F) of paragraph (2)) shall apply to any advance made under this subsection.

(B) *Exceptions.* —

(i) *New conditions precedent to making advances.* — The conditions described in subsection (a)(2) of this section shall apply with respect to making advances on or after October 1, 1995, in the same manner as such conditions apply with respect to making advances before October 1, 1995, except that:

(I) Subsection (a)(2)(C) of this section (relating to the last day on which advances may be made) shall be applied as if the reference to "September 30, 1995" were a reference to "January 31, 1996";

(II) Subsection (a)(2)(E) of this section (relating to the Secretary's determination of reasonable assurance of reimbursement from the annual federal payment appropriated to the District of Columbia) shall be applied as if the reference to "September 30, 1996" were a reference to "September 30, 1997";

(III) The Secretary may not make an advance under this subsection unless all advances made under subsection (a) of this section are fully reimbursed by withholding from the annual federal payment appropriated to the District of Columbia for the fiscal year ending September 30, 1996, under title V of the District of Columbia Home Rule Act, and applying toward reimbursement for such advances an amount equal to the amount needed to fully reimburse the Treasury for such advances; and

(IV) The Secretary may not make an advance under this subsection unless the Authority has provided the Secretary with the prior certification described in § 47-392.4(a)(1) [now § 47-392.04].

(ii) *New latest permissible maturity date.* — The provisions of subsection (a)(4) of this section shall apply with respect to the maturity of advances made after October 1, 1995, in the same manner as such provisions apply with



respect to the maturity of advances made before October 1, 1995, except that subparagraph (B) of such subsection (relating to the latest permissible maturity date) shall apply as if the reference to "October 1, 1995" were a reference to "October 1, 1996".

(C) *New maximum amount outstanding.* —

(i) *In general.* — Except as provided in sub-subparagraph (iii) of this subparagraph, if the conditions described in sub-subparagraph (ii) of this subparagraph are satisfied, each advance made under this subsection shall be in the amount designated by the Mayor in the Mayor's requisition for such advance.

(ii) *Conditions applicable to designated amount.* — Sub-subparagraph (i) of this subparagraph applies if the Mayor determines that the amount designated in the Mayor's requisition for such advance is needed to accomplish the purpose described in paragraph (1) of this subsection, and the Authority approves such amount.

(iii) *Aggregate maximum amount outstanding.* — The sum of the anticipated principal and interest requirements of all advances made under this paragraph may not be greater than 60% of the fiscal year 1996 limit.

(D) *Deposit of advances.* — As provided in § 47-392.04(b), each advance made under this subsection for the account of the District shall be deposited by the Secretary into an escrow account held by the Authority.

(E) *Fiscal Year 1996 limit described.* — In this paragraph, the term "Fiscal Year 1996 limit" means the amount authorized to be appropriated to the District of Columbia as the annual Federal payment to the District of Columbia under title V of the District of Columbia Home Rule Act for the fiscal year ending September 30, 1997.

(c) *Transitional short-term advances made on or after February 1, 1996, and before October 1, 1996.* —

(1) *In general.* — If the conditions in paragraph (2) of this subsection are satisfied, the Secretary shall make an advance of funds from time to time, out of any money in the Treasury not otherwise appropriated, for the same purpose as advances are made under subsection (a) of this section.

(2) *Terms and conditions.* —

(A) *In general.* — Except as provided in subparagraph (B) of this paragraph, subsection (b)(2) of this section shall apply to any advance made under this subsection.

(B) *Exceptions.* — The conditions applicable under subsection (b)(2) of this section (other than paragraph (2)(B) of subsection (a)) shall apply with respect to making advances on or after February 1, 1996, and before October 1, 1996, in the same manner as such conditions apply to making advances under such subsection, except that:

(i) In applying subparagraph (C) of subsection (a)(2) (as described in subsection (b)(2)(B)(i)(I)), the reference to "September 30, 1995" shall be deemed to be a reference to "September 30, 1996";

(ii) Subparagraph (C)(iii) of subsection (b)(2) shall apply as if the reference to "60%" were a reference to "40%"; and

(iii) No advance may be made unless the Secretary has been provided the certifications and information described in § 47-3401.02(b)(3) through (6).

(d) *Transitional short-term advances made on or after October 1, 1996, and before October 1, 1997.* —

(1) *In general.* — If the conditions in paragraph (2) of this subsection are satisfied, the Secretary shall make an advance of funds from time to time, out of any money in the Treasury not otherwise appropriated, for the same purpose as advances are made under subsection (a) of this section.

(2) *Terms and conditions.* —

(A) *In general.* — Except as provided in subparagraph (B) of this paragraph, paragraphs (2), (4), and (5) of subsection (a) of this section (other than subparagraphs (B) and (F) of paragraph (2)) shall apply to any advance made under this subsection.

(B) *Exceptions.* —

(i) *New conditions precedent to making advances.* — The conditions described in subsection (a)(2) of this section shall apply with respect to making advances on or after October 1, 1996, and before October 1, 1997, in the same manner as such conditions apply with respect to making advances before October 1, 1995, except that:

(I) Subparagraph (C) of this paragraph (relating to the last day on which advances may be made) shall be applied as if the reference to “September 30, 1995” were a reference to “September 30, 1997”;

(II) Subparagraph (E) of this paragraph (relating to the Secretary’s determination of reasonable assurance of reimbursement from the annual federal payment appropriated to the District of Columbia) shall be applied as if the reference to “September 30, 1996” were a reference to “September 30, 1998”;

(III) The Secretary may not make an advance under this subsection unless all advances made under subsections (b) and (c) of this section are fully reimbursed by withholding from the annual federal payment appropriated to the District of Columbia for the fiscal year ending September 30, 1997, under title V of the District of Columbia Home Rule Act, and applying toward reimbursement for such advances an amount equal to the amount needed to fully reimburse the Treasury for such advances; and

(IV) The Secretary may not make an advance under this subsection unless the Secretary has been provided the certifications and information described in § 47-3401.02(b)(3) through (6).

(ii) *New latest permissible maturity date.* — The provisions of subsection (a)(4) of this section shall apply with respect to the maturity of advances made under this subsection, in the same manner as such provisions apply with respect to the maturity of advances made before October 1, 1995, except that subparagraph (B) of such subsection (relating to the latest permissible maturity date) shall apply as if the reference to “October 1, 1995” were a reference to “October 1, 1997”.

(C) *New maximum amount outstanding.* —

(i) *In general.* — Except as provided in sub-subparagraph (iii) of this subparagraph, if the conditions described in sub-subparagraph (ii) of this subparagraph are satisfied, each advance made under this subsection shall be in the amount designated by the Mayor in the Mayor’s requisition for such advance.



(ii) *Conditions applicable to designated amount.* — Sub-subparagraph (i) of this subparagraph applies if the Mayor determines that the amount designated in the Mayor's requisition for such advance is needed to accomplish the purpose described in paragraph (1) of this subsection, and the Authority approves such amount.

(iii) *Aggregate maximum amount outstanding.* — The sum of the anticipated principal and interest requirements of all advances made under this paragraph may not be greater than 100% of the fiscal year 1997 limit.

(iv) *Fiscal Year 1997 limit described.* — In this subparagraph, the term "Fiscal Year 1997 limit" means the amount authorized to be appropriated to the District of Columbia as the annual Federal payment to the District of Columbia under title V of the District of Columbia Home Rule Act for the fiscal year ending September 30, 1998.

(D) *Deposit of advances.* — As provided in § 47-392.04(b), each advance made under this subsection for the account of the District shall be deposited by the Secretary into an escrow account held by the Authority.

(Aug. 17, 1937, 50 Stat. 692, ch. 690, title VII, § 2; May 16, 1938, 52 Stat. 369, ch. 223, § 7; July 26, 1939, 53 Stat. 1118, ch. 367, title VI; Mar. 2, 1940, 54 Stat. 39, ch. 37, § 3; June 27, 1942, 56 Stat. 460, ch. 452, § 11; June 28, 1944, 58 Stat. 533, ch. 300, § 14; Apr. 17, 1995, 109 Stat. 120, Pub. L. 104-8, § 204(c); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 5, 1997, 111 Stat. 767, Pub. L. 105-33, §§ 11403(a), 11404.)

**Cross references.** — Budget and financial management, existing provisions and procedure and practice preserved, borrowing and spending limitations, see § 1-206.03.

Budget and financial management, suspension of activities upon payment of Authority obligations, see § 47-391.07.

District government, financial plan and budget, control periods described, initiation under certain sections, see § 47-392.09.

District government, financial plan and budget, deposit of annual federal contribution with Authority, exception, see § 47-392.05.

District government, financial plan and budget, restrictions on borrowing during control year, application to certain sections, see § 47-392.04.

District government, financial plan and budget, special rules for Fiscal Year 1996, prohibition against allocation of advances if certification in effect, see § 47-392.08.

Taxation and fiscal affairs, General Fund and special accounts established, see § 47-131.

Tax collection, trust fund deposits and disbursements, see § 47-411.

**Section references.** — This section is referred to in §§ 47-3401.02, 47-3401.03, and 47-3401.04.

**Prior Codifications.** — 1981 Ed., § 47-3401.

1973 Ed., § 47-2501.

**References in text.** — The District of Co-

lumbia Financial Responsibility and Management Assistance Act of 1995, referred to in (a)(2)(B), is Pub. Law 104-8, 109 Stat. 97, which is codified primarily as §§ 1-204.24a et seq. and 47-391.01 et seq.

"Title V of the District of Columbia Home Rule Act," referred to in (a)(3)(D), (b)(2)(B)(i)(III), (b)(2)(E), (d)(2)(B)(i)(III), and (d)(2)(C)(iv), is title V, § 501 et seq., Pub. L. 93-198, 87 Stat. 774, approved December 24, 1973, codified as §§ 47-3405 and

**Delegation of Authority.** — Delegation of authority under D.C. Act 8-246, the "Tax Revenue Anticipation Notes Act of 1990," see Mayor's Order 90-118, September 27, 1990.

Delegation of authority under D.C. Law 9-46, the "General Fund Recovery Act of 1991," see Mayor's Order 91-147, October 4, 1991.

Delegation of authority under D.C. Act 8-246, the "Tax Revenue Anticipation Notes Act of 1990," see Mayor's Order 90-118, September 27, 1990.

Delegation of authority under D.C. Law 9-46, the "General Fund Recovery Act of 1991," see Mayor's Order 91-147, October 4, 1991.

**Editor's notes.** — Tax revenue anticipation notes authorized: D.C. Law 6-47, effective July 16, 1985, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1986.

D.C. Act 7-77, effective October 16, 1987,

authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1988.

D.C. Act 7-246, effective November 15, 1988, as amended by D.C. Act 8-38, effective June 8, 1989, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1988.

D.C. Act 8-63, effective July 24, 1989, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1989.

D.C. Act 8-214, effective June 12, 1990, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1989.

D.C. Act 8-246, effective July 18, 1990, as amended by D.C. Act 8-285, effective December 14, 1990, and D.C. Law 9-46, effective August 17, 1991, authorized the issuance of general obligation tax revenue anticipation notes of the

District of Columbia to finance general governmental expenses for fiscal year 1990.

Section 401 of D.C. Law 9-46 provided that "(a) title I shall not apply during the fiscal year ending September 30, 1991, if tax revenue anticipation notes are issued pursuant to title II.

"(b) Title I shall not apply during the fiscal year ending September 30, 1992, if tax revenue anticipation notes are issued pursuant to title III.

"(c) No tax revenue anticipation notes shall be issued pursuant to this act after the issuance of general obligation bonds to finance the accumulated deficit of the District."

D.C. Law 9-46, effective August 17, 1991, authorized the issuance of general obligation tax revenue anticipation notes of the District of Columbia to finance general governmental expenses for fiscal year 1992.

Issuance of general obligation revenue anticipation notes of District to finance its general governmental expenses for fiscal 1987 authorized: See D.C. Act 6-213, approved October 10, 1986, 31 DCR 6506.

## § 47-3401.01. Intermediate-term advances for liquidation of deficit.

(a) *In general.* — If the conditions in subsection (b) of this section are satisfied, the Secretary shall make an advance of funds from time to time, out of any money in the Treasury not otherwise appropriated and to the extent provided in advance in annual appropriations acts, for the purpose of assisting the District government in liquidating the outstanding accumulated operating deficit of the general fund of the District government existing as of September 30, 1997.

(b) *Conditions to making any intermediate-term advance.* — The Secretary shall make an advance under this section if

(1) The Mayor delivers to the Secretary the following instruments, in form and substance satisfactory to the Secretary:

(A) A financing agreement in which the Mayor agrees to procedures for requisitioning advances;

(B) A requisition for an advance under this section; and

(C) A promissory note evidencing the District government's obligation to reimburse the Treasury for the requisitioned advance, which note may be a general obligation bond issued under § 1-204.61 by the District government to the Secretary if the Secretary determines that such a bond is satisfactory;

(2) The date on which the requisitioned advance is requested to be made is not later than 3 years from the date of enactment of the Balanced Budget Act of 1997;

(3) The District government delivers to the Secretary:

(A) Evidence demonstrating to the satisfaction of the Secretary that, at the time of the Mayor's requisition for an advance, the District government is effectively unable to obtain credit in the public credit markets or elsewhere in



sufficient amounts and on sufficiently reasonable terms to meet the District government's need for financing to accomplish the purpose described in subsection (a) of this section; and

(B) A schedule setting out the anticipated timing and amounts of requisitions for advances under this section;

(4) The Authority certifies to the Secretary that:

(A) There is an approved financial plan and budget in effect under the District of Columbia Financial Responsibility and Management Assistance Act of 1995 for the fiscal year in which the requisition is to be made;

(B) At the time that the Mayor's requisition for an advance is delivered to the Secretary, the District government is in compliance with the approved financial plan and budget;

(C) Both the receipt of funds from such advance and the reimbursement of Treasury for such advance are consistent with the approved financial plan and budget for the year;

(D) Such advance will not adversely affect the financial stability of the District government; and

(E) At the time that the Mayor's requisition for an advance is delivered to the Secretary, the District government is effectively unable to obtain credit in the public credit markets or elsewhere in sufficient amounts and on sufficiently reasonable terms to meet the District government's need for financing to accomplish the purpose described in subsection (a) of this section;

(5) The Inspector General of the District of Columbia certifies to the Secretary the information described in subparagraphs (A) through (D) of paragraph (4), and in making this certification, the Inspector General may rely upon an audit conducted by an outside auditor engaged by the Inspector General under § 1-301.115a(a)(4) [now § 1-301.1115a(a)(4)] if, after reasonable inquiry, the Inspector General concurs in the findings of such audit;

(6) The Secretary determines that:

(A) There is reasonable assurance of reimbursement for the requisitioned advance; and

(B) The debt owed by the District government to the Treasury on account of the requisitioned advance will not be subordinate to any other debt owed by the District or to any other claims against the District; and

(7) The Secretary receives from such persons as the Secretary determines to be appropriate such additional certifications and opinions relating to such matters as the Secretary determines to be appropriate.

(c) *Amount of any intermediate-term advance.* —

(1) *In general.* — Except as provided in paragraph (3) of this subsection, if the conditions in paragraph (2) of this subsection are satisfied, each advance made under this section shall be in the amount designated by the Mayor in the Mayor's requisition for such advance.

(2) *Conditions applicable to designated amount.* — Paragraph (1) of this subsection applies if—

(A) The Mayor certifies that the amount designated in the Mayor's requisition for such advance is needed to accomplish the purpose described in subsection (a) of this section within 30 days of the time that the Mayor's requisition is delivered to the Secretary; and

(B) The Authority concurs in the Mayor's certification under subparagraph (A) of this paragraph.

(3) *Maximum amount.* — Notwithstanding paragraph (1) of this subsection, the aggregate amount of all advances made under this section shall not be greater than \$300,000,000.

(d) *Maturity of any intermediate-term advance.* —

(1) *In general.* — Except as provided in paragraphs (2) and (3) of this subsection, each advance made under this section shall mature on the date designated by the Mayor in the Mayor's requisition for such advance.

(2) *Latest permissible maturity date.* — Notwithstanding paragraph (1) of this subsection, the maturity date for any advance made under this section shall not be later than 10 years from the date on which the first advance under this section is made.

(3) [Reserved].

(4) *Secretary's right to require early reimbursement.* — Notwithstanding paragraph (1) of this subsection, if the Secretary determines, at any time while any advance made under this section has not been fully reimbursed, that the District is able to obtain credit in the public credit markets or elsewhere in sufficient amounts and on sufficiently reasonable terms, in the judgment of the Secretary, to refinance all or a portion of the unpaid balance of such advance in the public credit markets or elsewhere without adversely affecting the financial stability of the District government, the Secretary may require reimbursement for all or a portion of the unpaid balance of such advance at any time after the Secretary makes the determination.

(e) *Interest rate.* — Each advance made under this section shall bear interest at an annual rate equal to a rate determined by the Secretary at the time that the Secretary makes such advance taking into consideration the prevailing yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the repayment schedule of such advance, plus  $\frac{1}{8}$  of 1%.

(f) *Other terms and conditions.* — Each advance made under this section shall be on such other terms and conditions, including repayment schedule, as the Secretary determines to be appropriate.

(g) *Deposit of advances.* — As provided in § 47-392.04(b) advances made under this section for the account of the District government shall be deposited by the Secretary into an escrow account held by the Authority.

(July 26, 1939, 53 Stat. 1118, ch. 367, title VI, § 602, as added Aug. 5, 1997, 111 Stat. 765, Pub. L. 105-33, § 11402(2); Apr. 20, 1999, D.C. Law 12-264, § 52(v), 46 DCR 2118; Apr. 12, 2000, D.C. Law 13-91, §§ 156(d), 160(b)(1), 47 DCR 520.)

**Cross references.** — Budget and financial management, existing provisions and procedure and practice preserved, borrowing and spending limitations, see § 1-206.03.

Budget and financial management, suspension of activities upon payment of Authority obligations, see § 47-391.07.

District government, financial plan and budget, control periods described, initiation under certain sections, see § 47-392.09.

District government, financial plan and budget, deposit of annual federal contribution with Authority, exception, see § 47-392.05.

District government, financial plan and bud-



get, restrictions on borrowing during control year, application to certain sections, see § 47-392.04.

District government, financial plan and budget, special rules for Fiscal Year 1996, prohibition against allocation of advances if certification in effect, see § 47-392.08.

Procurement, office of the Inspector General, powers, duty to provide certification, see § 2-302.08.

**Section references.** — This section is referred to in §§ 47-3401.03 and 47-3401.04.

**Prior Codifications.** — 1981 Ed., § 47-3401.1.

**Effect of amendments.** — Section 156 (d) of Laws 13-91 validated a previously made technical amendment in subsecs. (4)(b) (c)(2)(B).

Section 160 (b) of D.C. Law 13-91 made a technical correction.

**Legislative history of Law 12-264.** — Law 12-264, the “Technical Amendments Act of 1998,” was introduced in Council and assigned Bill No. 12-804, which was referred to the Committee of the Whole. The Bill was adopted

on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on January 7, 1999, it was assigned Act No. 12-626 and transmitted to both Houses of Congress for its review. D.C. Law 12-264 became effective on April 20, 1999.

**Legislative history of Law 13-91.** — Law 13-91, the “Technical Amendments Act of 1999,” was introduced in Council and assigned Bill No. 13-435, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 2, 1999, and December 7, 1999, respectively. Signed by the Mayor on December 29, 1999, it was assigned Act No. 13-234 and transmitted to both Houses of Congress for its review. D.C. Law 13-91 became effective on April 12, 2000.

**References in text.** — The “Balanced Budget Act of 1997,” referred to in (b)(2), is Pub. L. 105-33, 111 Stat. 251, effective August 5, 1997.

The “District of Columbia Financial Responsibility and Management Assistance Act of 1995,” referred to in (b)(4)(A), is Pub. L. 104-8, 109 Stat. 97, approved April 17, 1995.

## § 47-3401.02. Short-term advances for seasonal cash-flow management.

(a) *In general.* — If the conditions in subsection (b) of this section are satisfied, the Secretary shall make an advance of funds from time to time, out of any money in the Treasury not otherwise appropriated, for the purpose of assisting the District government in meeting its general expenditures, as authorized by Congress, at times of seasonal cash-flow deficiencies.

(b) *Conditions to making any short-term advance.* — The Secretary shall make an advance under this section if:

(1) The Mayor delivers to the Secretary a requisition for an advance under this section;

(2) The date on which the requisitioned advance is to be made is in a control period;

(3) The Authority certifies to the Secretary that:

(A) The District government has prepared and submitted a financial plan and budget for the District government;

(B) There is an approved financial plan and budget in effect under the District of Columbia Financial Responsibility and Management Assistance Act of 1995 for the fiscal year for which the requisition is to be made;

(C) At the time of the Mayor’s requisition for an advance, the District government is in compliance with the financial plan and budget;

(D) Both the receipt of funds from such advance and the reimbursement of the Treasury for such advance are consistent with the financial plan and budget for the year; and

(E) Such advance will not adversely affect the financial stability of the District government;

(4) The Authority certifies to the Secretary, at the time of the Mayor’s requisition for an advance, that the District government is effectively unable to

obtain credit in the public credit markets or elsewhere in sufficient amounts and on sufficiently reasonable terms to meet the District government's financing needs;

(5) The Inspector General of the District of Columbia certifies to the Secretary the information described in paragraph (3) of this subsection by providing the Secretary with a certification conducted by an outside auditor under a contract entered into pursuant to § 1-301.115a(a)(4); and

(6) The Secretary receives such additional certifications and opinions relating to the financial position of the District government as the Secretary determines to be appropriate from such other federal agencies and instrumentalities as the Secretary determines to be appropriate.

(7) Repealed.

(c) *Amount of any short-term advance.* —

(1) *In general.* — Except as provided in paragraph (3) of this subsection, if the conditions in paragraph (2) of this subsection are satisfied, each advance made under this section shall be in the amount designated by the Mayor in the Mayor's requisition for such advance.

(2) *Conditions applicable to designated.* — Paragraph (1) of this subsection applies if:

(A) The Mayor determines that the amount designated in the Mayor's requisition for such advance is needed to accomplish the purpose described in subsection (a) of this section; and

(B) The Authority:

(i) Concurs in the Mayor's determination under subparagraph (A) of this paragraph; and

(ii) Determines that the reimbursement obligation of the District government for an advance made under this section in the amount designated in the Mayor's requisition is consistent with the financial plan for the year.

(3) *Maximum amount outstanding.* —

(A) *In general.* — Notwithstanding paragraph (1) of this subsection, the unpaid principal balance of all advances made under this section in any fiscal year of the District government shall not at any time be greater than 100% of applicable limit.

(B) *Special rule for Fiscal Year 1997.* — The unpaid principal balance of all advances made under this section in Fiscal Year 1997 of the District government shall not at any time be greater than the difference between:

(i) 150% of the applicable limit for such fiscal year; and

(ii) The unpaid principal balance of any advances made under § 47-3401(d).

(C) *Applicable limit defined.* — In this paragraph, the "applicable limit" for a fiscal year is equal to 15% of the total anticipated revenues of the District government for such fiscal year, as certified by the Mayor at the time of the Mayor's requisition for an advance.

(d) *Maturity of any short-term advance.* —

(1) *In general.* — Except as provided in paragraph (3) of this subsection, if the condition in paragraph (2) of this subsection is satisfied, each advance made under this section shall mature on the date designated by the Mayor in the Mayor's requisition for such advance.



(2) *Condition applicable to designated maturity.* — Paragraph (1) of this subsection applies if the Authority determines that the reimbursement obligation of the District government for an advance made under this section having the maturity date designated in the Mayor's requisition is consistent with the financial plan for the year.

(3) *Latest permissible maturity date.* — Notwithstanding paragraph (1) of this subsection, the maturity date for any advance made under this section shall not be later than 11 months after the date on which such advance is made.

(e) *Interest rate.* — Each advance made under this section shall bear interest at an annual rate equal to a rate determined by the Secretary at the time that the Secretary makes such advance taking into consideration the prevailing yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the maturity of such advance, plus  $\frac{1}{8}$  of 1%.

(f) *Ten-business-day zero balance requirement.* — After the expiration of the 12-month period beginning on the date on which the first advance is made under this section, the Secretary shall not make any new advance under this section unless the District government has:

(1) Reduced to zero at the same time the principal balance of all advances made under this section at least once during the previous 12-month period; and

(2) Not requisitioned any advance to be made under this section in any of the 10 business days following such reduction.

(g) *Deposit of advances.* — As provided in § 47-392.04(b), advances made under this section for the account of the District government shall be deposited by the Secretary into an escrow account held by the Authority.

(July 26, 1939, 53 Stat. 1118, ch. 367, title VI, § 602, as added Apr. 17, 1995, 109 Stat. 120, Pub. L. 104-8, § 204(c); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575, renumbered as § 603, Aug. 5, 1997, 111 Stat. 765, Pub. L. 105-33, §§ 11402(1), 11601(b)(4)(A), (B); Apr. 20, 1999, D.C. Law 12-264, § 52(w), 46 DCR 2118; Apr. 12, 2000, D.C. Law 13-91, § 160(b)(2), 47 DCR 520.)

**Cross references.** — Budget and financial management, existing provisions and procedure and practice preserved, borrowing and spending limitations, see § 1-206.03.

Budget and financial management, suspension of activities upon payment of Authority obligations, see § 47-391.07.

District government, financial plan and budget, control periods described, initiation under certain sections, see § 47-392.09.

District government, financial plan and budget, deposit of annual federal contribution with Authority, exception, see § 47-392.05.

District government, financial plan and budget, restrictions on borrowing during control year, application to certain sections, see § 47-392.04.

District government, financial plan and budget, special rules for Fiscal Year 1996, prohibition against allocation of advances if certification in effect, see § 47-392.08.

**Section references.** — This section is referred to in §§ 47-3401, 47-3401.03, and 47-3401.04.

**Prior Codifications.** — 1981 Ed., § 47-3401.2.

**Effect of amendments.** — D.C. Law 13-91 made a technical correction.

**Legislative history of Law 12-264.** — For legislative history of D.C. Law 12-264, see Historical and Statutory Notes following § 47-3401.01.

**Legislative history of Law 13-91.** — For Law 13-91, see notes following § 47-3401.01.

§ 47-3401.03. Security for advances.

(a) *In general.* — The Secretary shall require the District government to provide such security for any advance made under §§ 47-3401 through 47-3401.04, as the Secretary determines to be appropriate.

(b) *Authority to require specific security.* — As security for any advance made under §§ 47-3401 through 47-3401.04, the Secretary may require the District government to:

(1) Pledge to the Secretary specific taxes and revenue of the District government, if such pledging does not cause the District government to violate existing laws or contracts; and

(2) Establish a debt service reserve fund pledged to the Secretary.

(July 26, 1939, 53 Stat. 1118, ch. 367, title VI, § 603, as added Apr. 17, 1995, 109 Stat. 120, Pub. L. 104-8, § 204(c); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575, renumbered as § 604, Aug. 5, 1997, 111 Stat. 765, Pub. L. 105-33, § 11402(1).)

**Cross references.** — Budget and financial management, existing provisions and procedure and practice preserved, borrowing and spending limitations, see § 1-206.03.

Budget and financial management, suspension of activities upon payment of Authority obligations, see § 47-391.07.

District government, financial plan and budget, control periods described, initiation under certain sections, see § 47-392.09.

District government, financial plan and budget, deposit of annual federal contribution with Authority, exception, see § 47-392.05.

District government, financial plan and budget, restrictions on borrowing during control year, application to certain sections, see § 47-392.04.

District government, financial plan and budget, special rules for Fiscal Year 1996, prohibition against allocation of advances if certification in effect, see § 47-392.08.

**Section references.** — This section is referred to in § 47-3401.04.

**Prior Codifications.** — 1981 Ed., § 47-3401.3.

§ 47-3401.04. Reimbursement to the Treasury.

(a) *Reimbursement amount.* —

(1) *In general.* — Except as provided in paragraph (2) of this subsection, on any date on which a reimbursement payment is due to the Treasury under the terms of any advance made under §§ 47-3401 through 47-3401.04, the District shall pay to the Treasury the amount of such reimbursement payment out of taxes and revenue collected for the support of the District government.

(2) *Exceptions for transitional advances.* —

(A) *Advances made before October 1, 1995.* —

(i) *Financial plan and budget approved.* — If the Authority approves a financial plan for the District government before October 1, 1995, the District government may use the proceeds of any advance made under § 47-3401.02 to discharge its obligation to reimburse the Treasury for any advance made under § 47-3401(a).

(ii) *Financial plan and budget not approved.* — If the Authority has not approved a financial plan and budget for the District government by October 1, 1995, the annual federal payment appropriated to the District government for the fiscal year ending September 30, 1996, shall be withheld



and applied to discharge the District government's obligation to reimburse the Treasury for any advance made under § 47-3401(a).

(B) *Advances made on or after October 1, 1995.* —

(i) *Financial plan and budget approved.* — If the Authority approves a financial plan and budget for the District government during fiscal year 1996, the District may use the proceeds of any advance made under § 47-3401.02 to discharge its obligation to reimburse the Treasury for any advance made under § 47-3401(b).

(ii) *Financial plan and budget not approved.* — If the Authority has not approved a financial plan and budget for the District government by October 1, 1996, the annual federal payment appropriated to the District government for the fiscal year ending September 30, 1997, shall be withheld and applied to discharge the District government's obligation to reimburse the Treasury for any advance made under § 47-3401(b).

(b) *Remedies for failure to reimburse.* — If, on any date on which a reimbursement payment is due to the Treasury under the terms of any advance made under this subchapter, the District government does not make such reimbursement payment, the Secretary shall take the actions listed in this subsection.

(1) *Withhold federal payments.* — The Secretary shall withhold from each grant, entitlement, loan, or other payment to the District government by the Federal Government not dedicated to making entitlement or benefit payments to individuals (including any Federal contribution authorized to be appropriated pursuant to § 47-3406.02(2)), and apply toward reimbursement for the payment not made, an amount that, when added to the amount withheld from each other such grant, entitlement, loan, or other payment, will be equal to the amount needed to fully reimburse the Treasury for the payment not made.

(2) *Attach available District revenues.* — If, after the Secretary takes the actions described in paragraph (1) of this subsection, the Treasury is not fully reimbursed, the Secretary shall attach any and all revenues of the District government which the Secretary may lawfully attach, and apply toward reimbursement for the payment not made, an amount equal to the amount needed to fully reimburse the Treasury for the payment not made.

(3) *Take other actions.* — If, after the Secretary takes the actions described in paragraphs (1) and (2) of this subsection, the Treasury is not fully reimbursed, the Secretary shall take any and all other actions permitted by law to recover from the District government the amount needed to fully reimburse the Treasury for the payment not made.

(July 26, 1939, 53 Stat. 1118, ch. 367, title VI, § 604, as added Apr. 17, 1995, 109 Stat. 120, Pub. L. 104-8, § 204(c); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575, renumbered as § 605, Aug. 5, 1997, 111 Stat. 765, Pub. L. 105-33, §§ 11403(b), 11601(b)(4)(C); Apr. 20, 1999, D.C. Law 12-264, § 52(x), 46 DCR 2118.)

**Cross references.** — Budget and financial management, existing provisions and procedure and practice preserved, borrowing and spending limitations, see § 1-206.03.

Budget and financial management, suspension of activities upon payment of Authority obligations, see § 47-391.07.

District government, financial plan and bud-

get, control periods described, initiation under certain sections, see § 47-392.09.

District government, financial plan and budget, deposit of annual federal contribution with Authority, exception, see § 47-392.05.

District government, financial plan and budget, restrictions on borrowing during control year, application to certain sections, see § 47-392.04.

District government, financial plan and budget, special rules for Fiscal Year 1996, prohibi-

tion against allocation of advances if certification in effect, see § 47-392.08.

**Section references.** — This section is referred to in § 47-3401.03.

**Prior Codifications.** — 1981 Ed., § 47-3401.4.

**Legislative history of Law 12-264.** — For legislative history of D.C. Law 12-264, see Historical and Statutory Notes following § 47-3401.01.

## § 47-3401.05. Definitions.

For purposes of this chapter:

(1) The term “Authority” means the District of Columbia Financial Responsibility and Management Assistance Authority established under § 47-391.01(a);

(2) The term “control period” has the meaning given such term under § 47-393(4) [§ 47-393(3)];

(3) The term “District government” has the meaning given such term under § 47-393(5);

(4) The term “financial plan and budget” has the meaning given such term under § 47-393(6); and

(5) The term “Secretary” means the Secretary of the Treasury.

(July 26, 1939, 53 Stat. 1118, ch. 367, title VI, § 605, as added Apr. 17, 1995, 109 Stat. 120, Pub. L. 104-8, § 204(c); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575, renumbered in § 606, Aug. 5, 1997, 111 Stat. 765, Pub. L. 105-33, § 11402(1).)

**Cross references.** — Budget and financial management, existing provisions and procedure and practice preserved, borrowing and spending limitations, see § 1-206.03.

**Prior Codifications.** — 1981 Ed., § 47-3401.5.

## § 47-3402. Annual payment by the United States — Appropriations — Generally.

There are authorized to be appropriated, as the annual payment by the United States toward defraying the expenses of the government of the District of Columbia, not to exceed \$173,000,000 for the fiscal year ending June 30, 1972, and not to exceed \$178,000,000 for the fiscal year ending June 30, 1973, and for each fiscal year thereafter. Sums appropriated under this section shall be credited to the General Fund of the District of Columbia.

(July 16, 1947, 61 Stat. 361, ch. 258, Art. VI, § 1; May 18, 1954, 68 Stat. 113, ch. 218, title VII, § 701; Sept. 30, 1966, 80 Stat. 857, Pub. L. 89-610, title V, § 501; Nov. 3, 1967, 81 Stat. 339, Pub. L. 90-120, title I, § 101; Aug. 2, 1968, 82 Stat. 612, Pub. L. 90-450, title I, § 101; Oct. 31, 1969, 83 Stat. 180, Pub. L. 91-106, title VII, § 701; Jan. 5, 1971, 84 Stat. 1930, Pub. L. 91-650, title I, § 101; Dec. 15, 1971, 85 Stat. 654, Pub. L. 92-196, title VI, § 601(a); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)



**Section references.** — This section is referred to in § 47-3403.

**Prior Codifications.** — 1981 Ed., § 47-3402.

1973 Ed., § 47-2501a.

**Editor's notes.** — Federal payment to the

District of Columbia: Public Law 104-194, 110 Stat. 2356, the D.C. Appropriations Act, 1997, provided for payment to the District of Columbia for the fiscal year ending September 30, 1997, \$660,000,000.

## § 47-3403. Annual payment by the United States — Appropriations — Employee pay increases.

(a) In addition to the amount authorized to be appropriated under § 47-3402 for the fiscal year ending June 30, 1972, there is authorized to be appropriated to the District of Columbia for such fiscal year not to exceed \$6,000,000 which may only be used in such fiscal year to pay officers and employees of the District of Columbia increased compensation which is required by comparability adjustments made on or after January 1, 1972, in the rates of pay of statutory pay systems (as defined in § 5301(c) of Title 5, United States Code), based on the 1971 Bureau of Labor Statistics survey.

(b) In addition to the amount authorized to be appropriated under § 47-3402 for the fiscal year ending June 30, 1973, and for each fiscal year thereafter, there is authorized to be appropriated to the District of Columbia not to exceed \$12,000,000 for each such fiscal year which may only be used to pay officers and employees of the District of Columbia increased compensation which is required by comparability adjustments made on or after January 1, 1972, in the rates of pay of statutory pay systems (as defined in § 5301(c) of Title 5, United States Code), based on the 1971 Bureau of Labor Statistics survey.

(Dec. 15, 1971, 85 Stat. 655, Pub. L. 92-196, title VI, § 601(b); enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3403.

1973 Ed., § 47-2501a-1.

## § 47-3404. Annual payment by the United States — Appropriations — Deficiency.

If in any fiscal year or years a deficiency exists between the amount appropriated and the amount authorized by this article to be appropriated, additional appropriations are hereby authorized for subsequent fiscal years to pay such deficiency or deficiencies.

(July 16, 1947, 61 Stat. 361, ch. 258, art. VI, § 2; May 18, 1954, 68 Stat. 113, ch. 218, title VII, § 701; Mar. 31, 1956, 70 Stat. 83, ch. 154, § 401; June 6, 1958, 72 Stat. 183, Pub. L. 85-451, § 2; Aug. 27, 1963, 77 Stat. 130, Pub. L. 88-104, § 1; Sept. 30, 1966, 80 Stat. 857, Pub. L. 89-610, title V, § 501; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3404.

1973 Ed., § 47-2501b.

**References in text.** — The reference to "this article" in this section is to art. VI, 61 Stat. 361, ch. 258, approved July 16, 1947.

**§ 47-3405. Annual payment by the United States — Duties of Mayor and Council; submittal of request to President. [Repealed].**

Repealed.

(Dec. 24, 1973, 87 Stat. 812, Pub. L. 93-198, title V, § 501; Aug. 5, 1997, 111 Stat. 777, Pub. L. 105-33, § 11601(a)(1).)

**Prior Codifications.** — 1981 Ed., § 47-3405.

1973 Ed., § 47-2501c.

**Effective date.** — Pub. L. 105-33, title XI, § 11721, Aug. 5, 1997, 111 Stat. 786, provided: "Sec. 11721. Effective Date. Except as otherwise provided in this title, the provisions of this title shall take effect on the later of October 1, 1997, or the day the District of Columbia Fi-

nancial Responsibility and Management Assistance Authority certifies that the financial plan and budget for the District government for fiscal year 1998 meet the requirements of section 201(c)(1) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by this title."

**Editor's notes.** — This provision is also codified at § 1-205.01.

**§ 47-3406. Annual payment by the United States — Appropriation authorization. [Repealed].**

Repealed.

(Dec. 24, 1973, 87 Stat. 813, Pub. L. 93-198, title V, § 502; Aug. 29, 1994, 88 Stat. 793, Pub. L. 93-395, § 1(7); Aug. 6, 1981, 95 Stat. 150, Pub. L. 97-30; Oct. 15, 1982, 96 Stat. 1626, Pub. L. 97-34; Aug. 2, 1983, 97 Stat. 367, Pub. L. 98-65; June 12, 1984, 98 Stat. 242, Pub. L. 98-316; Nov. 8, 1984, 98 Stat. 3369, Pub. L. 98-621, § 9(c)(2); Dec. 12, 1989, 103 Stat. 1901, Pub. L. 101-223, § 2(a); Aug. 17, 1991, 105 Stat. 495, Pub. L. 102-102, § 2(a); Aug. 5, 1997, 111 Stat. 777, Pub. L. 105-33, § 11601(a)(1).)

**Prior Codifications.** — 1981 Ed., § 47-3406.

1973 Ed., § 47-2501d.

**Effective date.** — Pub. L. 105-33, title XI, § 11721, Aug. 5, 1997, 111 Stat. 786, provided:

"Sec. 11721. Effective Date. Except as otherwise provided in this title, provisions of this title shall take effect on the later of October 1, 1997, or the day the District of Columbia Financial Responsibility and Management Assistance Authority certifies that the financial plan and budget for the District government for fiscal year 1998 meet the requirements of section 201(c)(1) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, as amended by this title."

**Delegation of Authority.** — Delegation of authority pursuant to Public Law 101-223, for the Pilot Police Corps Program, see Mayor's Order 90-131, October 5, 1990.

**Editor's notes.** — This provision is also codified at § 1-205.02

Federal payment to the District of Columbia: Public Law 103-127, 106 Stat. 1341, the District of Columbia Appropriations Act, 1994,

provided \$38,337,000 for the purpose of eliminating the \$331,589,000 general fund accumulated deficit as of September 30, 1990.

Federal payment not subject to apportionment: Section 132 of § 1(c) of Pub. L. 100-202, the D.C. Appropriations Act, 1988, provided that beginning with the fiscal year 1988, amounts appropriated for any fiscal year as the Federal payment to the District of Columbia under § 47-3406, shall not be subject to apportionment and shall be paid by the Secretary of the Treasury to the District of Columbia no later than 15 days after the beginning of the fiscal year for which they are appropriated (or no later than 15 days after the date of the enactment of the appropriating Act, if later).

Appropriations not subject to apportionment: Section 135 of § 1(c) of Pub. L. 100-202, the D.C. Appropriations Act, 1988, provided that Federal funds hereafter appropriated to the District of Columbia government shall not be subject to apportionment except to the extent specifically provided by statute.

Federal payment to the District of Columbia: Public Law 104-194, 110 Stat. 2356, the D.C.



Appropriations Act, 1997, provided for payment to the District of Columbia for the fiscal year ending September 30, 1997, \$660,000,000.

Public Law 104-194, 110 Stat. 2360, the District of Columbia Appropriations Act, 1997, provided for human support services, \$1,685,707,000 and 6,344 full-time equivalent positions (including \$961,399,000 and 3,814 full-time equivalent positions from local funds, \$676,665,000 and 2,444 full-time equivalent positions from Federal funds, and \$47,643,000 and 86 full-time equivalent positions from other funds): Provided, That \$24,793,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation; Provided further, That the District shall not provide free government services such as water, sewer, solid waste disposal or collection, utilities, maintenance, repairs, or similar services to any legally constituted private nonprofit organization (as defined in section 411(5) of Public Law 100-77, approved July 22, 1987) providing emergency shelter services in the District, if the District would not be qualified to receive reimbursement pursuant to the Stewart B. McKinney Homeless Assistance Act, approved July 22, 1987 (101 Stat. 485; Public Law 100-77; 42 U.S.C. 11301 et seq.).

Repayment of loans and interest: Public Law 104-194, 110 Stat. 2360, the District of Colum-

bia Appropriations Act, 1997, provided for reimbursement to the United States of funds loaned in compliance with An Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); section 1 of An Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451, D.C. Code, sec. 10-619); section 4 of An Act to authorize the Commissioners of the District of Columbia to plan, construct, operate and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86-515); section 723 and 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act of 1973, approved December 24, 1973, as amended (87 Stat. 821; Public Law 93-198; D.C. Code, section 1-204.61, note; 91 Stat. 1156, Public Law 95-131; D.C. Code, sec. 10-619, note), including interest as required thereby, \$333,710,000 from local funds.

## § 47-3406.01. Federal payment formula.

Repealed.

(Dec. 24, 1973, 87 Stat. 813, Pub. L. 93-198, title V, § 503, as added Aug. 17, 1991, 105 Stat. 495, Pub. L. 102-102, § 2(b); Oct. 19, 1994, 108 Stat. 3488, Pub. L. 103-373, § 2; Apr. 17, 1995, 109 Stat. 142, Pub. L. 104-8, § 301(e); Aug. 5, 1997, 111 Stat. 777, Pub. L. 105-33, § 11601(a)(1).)

**Prior Codifications.** — 1981 Ed., § 47-3406.1.

## § 47-3406.02. Federal contribution to operations of government of Nation's Capital.

(a) *Findings.* — Congress finds as follows:

(1) Congress has restricted the overall size of the District of Columbia's economy by limiting the height of buildings in the District and imposing other limitations relating to the Federal presence in the District.

(2) Congress has imposed limitations on the District's ability to tax income earned in the District of Columbia.

(3) The unique status of the District of Columbia as the seat of the government of the United States imposes unusual costs and requirements which are not imposed on other jurisdictions and many of which are not directly reimbursed by the Federal government.

(4) These factors play a significant role in causing the relative tax burden on District residents to be greater than the burden on residents in other jurisdictions in the Washington, D.C. metropolitan area and in other cities of comparable size.

(b)(1) *Federal contribution.* — There is authorized to be appropriated a Federal contribution towards the costs of the operation of the government of the Nation's capital:

(A) For fiscal year 1998, \$190,000,000; and

(B) For each subsequent fiscal year, such amount as may be necessary for such contribution.

(2) In determining the amount appropriated pursuant to the authorization under this subsection, Congress shall take into account the findings described in subsection (a) of this section.

(Aug. 5, 1997, 111 Stat. 778, Pub. L. 105-33, § 11601(c); Apr. 20, 1999, D.C. Law 12-264, § 52(y), 46 DCR 2118; Mar. 2, 2007, D.C. Law 16-191, § 82, 53 DCR 6794.)

**Cross references.** — District government, financial plan and budget, deposit of annual federal contribution with Authority into escrow account, see § 47-3406.

Taxation and fiscal affairs, failure to reimburse the Treasury, withholding federal payments, see § 47-3401.04.

**Prior Codifications.** — 1981 Ed., § 47-3406.2.

**Effect of amendments.** — D.C. Law 16-191, in subsec. (b), designated pars. (1) and (2), and redesignated former pars. (1) and (2) as subpars. (b)(1)(A) and (B).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 14 of Finance and Revenue Technical Amendments Second Emergency Amendment Act of 2006 (D.C. Act 16-585, December 28, 2006, 54 DCR 340).

**Legislative history of Law 12-264.** — For legislative history of D.C. Law 12-264, see Historical and Statutory Notes following § 47-3401.01.

**Legislative history of Law 16-191.** — For Law 16-191, see notes following § 47-2425.

## § 47-3407. Regulations.

The Council of the District of Columbia is authorized to make such rules and regulations as may be necessary to carry out the provisions of the District of Columbia Revenue Act of 1937, as amended and shall prescribe and publish all needful rules and regulations for the enforcement of the Revenue Act of 1939.

(Aug. 17, 1937, 50 Stat. 693, ch. 690, title VII, § 3; May 16, 1938, 52 Stat. 370, ch. 223, § 7; July 26, 1939, 53 Stat. 1119, ch. 367, title VIII, § 2; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3407.

1973 Ed., § 47-2502.

**References in text.** — The District of Columbia Revenue Act of 1937, referred to in this

section, is 50 Stat. 673, approved August 17, 1937.

The Revenue Act of 1939, referred to in this section, is 50 Stat. 1087, approved July 26, 1939.

## § 47-3408. Severability.

If any provision of the District of Columbia Revenue Act of 1937 and the Revenue Act of 1939, or the application thereof to any person or circumstance,



is held invalid, the remainder of the act, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

(Aug. 17, 1937, 50 Stat. 693, ch. 690, title VII, § 4; May 16, 1938, 52 Stat. 370, ch. 223, § 7; July 26, 1939, 53 Stat. 1119, ch. 367, title VIII, § 1; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3408.

1973 Ed., § 47-2503.

**References in text.** — The District of Columbia Revenue Act of 1937, referred to in this

section, is 50 Stat. 673, approved August 17, 1937.

The Revenue Act of 1939, referred to in this section, is 53 Stat. 1087, approved July 26, 1939.

## § 47-3409. Divulging information obtained from Internal Revenue Service prohibited; penalties.

Except in accordance with proper judicial order or as otherwise provided by law, it shall be unlawful for the Mayor or any person having an administrative duty under this chapter to divulge or make known in any manner any information obtained from the Internal Revenue Service in accordance with any provisions of the District of Columbia Revenue Act of 1937, as amended. Any violation of the provisions of this section shall subject the offender to a fine of \$300 or imprisonment for 90 days.

(Aug. 17, 1937, 50 Stat. 693, ch. 690, title VII, § 5; May 16, 1938, 52 Stat. 370, ch. 223, § 7; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3409.

1973 Ed., § 47-2504.

**References in text.** — The District of Co-

lumbia Revenue Act of 1937, referred to in this section, is 50 Stat. 673, approved August 17, 1937.

## § 47-3410. Effect of District of Columbia Tax Enforcement Act of 1982.

(a) If any provision of the District of Columbia Tax Enforcement Act of 1982, including any amendment made by the District of Columbia Tax Enforcement Act of 1982, or the application thereof to any person or circumstance, is held invalid, the remainder of the District of Columbia Tax Enforcement Act of 1982, including the remaining amendments, and the application of such provisions to other persons or circumstances shall not be affected thereby.

(b) The repeal or amendment by the District of Columbia Tax Enforcement Act of 1982 of any provision of law shall not affect any act done or any right accrued or accruing under such provision of law before July 24, 1982, or any suit or proceeding had or commenced before July 24, 1982, but all such rights and liabilities under such acts shall continue and may be enforced in the same manner and to the same extent, as if such repeal or amendment had not been made.

(c) All offenses committed, and all penalties incurred, prior to July 24, 1982, under any provisions of law repealed or amended, may be prosecuted and

punished in the same manner and with the same effect as if the District of Columbia Tax Enforcement Act of 1982 had not been enacted.

(July 24, 1982, D.C. Law 4-131, § 502, 29 DCR 2415; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3410.

**Legislative history of Law 4-131.** — Law 4-131, the “District of Columbia Tax Enforcement Act of 1982,” was introduced in Council and assigned Bill No. 4-257, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings

on April 27, 1982, and May 11, 1982, respectively. Signed by the Mayor on June 1, 1982, it was assigned Act No. 4-196 and transmitted to both Houses of Congress for its review.

**References in text.** — The “District of Columbia Tax Enforcement Act of 1982,” referred to throughout this section, is D.C. Law 4-131.



# CHAPTER 35. LOWER INCOME HOMEOWNERSHIP TAX ABATEMENT AND INCENTIVES.

Sec.	Sec.
47-3501. Findings.	47-3505. Nonprofit housing organizations — Qualifications; exemptions.
47-3502. Lower income homeownership households — Qualifications.	47-3506. Administration and enforcement — Qualifying nonprofit housing organizations and cooperative housing associations.
47-3503. Exemptions for qualifying lower income homeownership households and cooperative housing associations.	47-3506.01. Resident management corporations — Qualifications; exemptions.
47-3504. Exemptions for qualifying lower income homeownership households and cooperative housing associations — Administration and enforcement.	47-3507. Certification of program providing low income rental housing.
	47-3508. Regulations.

## § 47-3501. Findings.

The Council of the District of Columbia finds that:

(1) Homeownership can be afforded by very few lower income families in the District of Columbia.

(2) Homeownership stabilizes families and, in turn, stabilizes neighborhoods, contributing to improved housing conditions and safer, better quality neighborhoods.

(3) The District of Columbia government budgets for the fiscal years ending September 30, 1983, and September 30, 1984, do not have funds available for significant new homeownership initiatives.

(4) Homeownership for lower income families can be achieved, on a limited basis, through the work of nonprofit housing organizations and through private investments in shared equity arrangements which are encouraged by existing federal and District of Columbia income tax laws.

(5) Additional support for nonprofit housing organizations, and private investors in shared equity arrangements, through property tax abatements and other incentives can serve to expand homeownership for lower income families at little or no additional cost to the District of Columbia.

(6) Expansion of homeownership opportunities for lower income families is beneficial to the public peace, health, safety and general welfare.

(7) The purpose of this act is to expand homeownership opportunities for lower income families to the maximum extent possible at the lowest possible direct cost to the District of Columbia.

(Oct. 8, 1983, D.C. Law 5-31, § 2, 30 DCR 3879; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3501.

**Legislative history of Law 5-31.** — Law 5-31, the "Lower Income Homeownership Tax Abatement and Incentives Act of 1983," was introduced in Council and assigned Bill No. 5-167, which was referred to the Committee on Finance and Revenue. The Bill was adopted on

first and second readings on June 28, 1983 and July 12, 1983, respectively. Signed by the Mayor on July 21, 1983, it was assigned Act No. 5-53 and transmitted to both Houses of Congress for its review.

**References in text.** — "Act," referred to in paragraph (7), means D.C. Law 5-31.

## § 47-3502. Lower income homeownership households — Qualifications.

(a) In order to qualify as a lower income homeownership household in the District of Columbia, a lower income household must meet the following conditions:

(1) The income of the household shall not be in excess of 120% of the lower income guidelines established pursuant to 42 U.S.C. § 1437f, for the Washington Standard Metropolitan Statistical Area (SMSA), as the median is determined by the United States Department of Housing and Urban Development and adjusted yearly by historic trends of that median, and as further may be adjusted by an interim census of District of Columbia incomes by local or regional government agencies; and

(2) The household shall occupy the unit and shall either:

(A) Become an owner in fee simple; or

(B) Receive, pursuant to a shared equity financing agreement which complies with the requirements of 26 U.S.C. § 280A(d)(3), at least a 5% qualified ownership interest, the right to occupy the unit, and an option to purchase the remaining ownership interest at a specified later date.

(b) Notwithstanding the requirements of subsection (a) of this section, a household may qualify as a lower income household in the District of Columbia if it meets each of the following requirements:

(1) The household occupies a residential property including a single-family home, condominium, or cooperative, located in an economic development zone approved pursuant to § 6-1501;

(2) The property is the principal place of residence of its owner;

(3) The property is owned in fee simple, or the equivalent with respect to occupancy rights in a cooperative, by a first time home buyer; and

(4) The household income does not exceed 110% of the area median income guidelines established pursuant to § 42-2604.

(c) This chapter shall not apply if the fair market value of the unit or residential property exceeds 80% of the median sale price for homes within the District of Columbia in the prior year as of the date that the application for exemption is filed.

(Oct. 8, 1983, D.C. Law 5-31, § 3, 30 DCR 3879; Oct. 20, 1988, D.C. Law 7-177, § 11, 35 DCR 6158; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 4, 2003, D.C. Law 14-282, § 11(uu), 50 DCR 896; Oct. 20, 2005, D.C. Law 16-33, § 1281(b), 52 DCR 7503.)

**Cross references.** — Real property assessment and tax, “owner” and “taxpayer” defined, see § 47-802.

**Section references.** — This section is referred to in §§ 47-3503, 47-3504, and 47-3505.

**Prior Codifications.** — 1981 Ed., § 47-3502.

**Effect of amendments.** — D.C. Law 14-282 added subsec. (c).

D.C. Law 16-33, in subsec. (c), substituted

“80% of the median sale price for homes within the District of Columbia in the prior year” for “\$250,000”.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 12(ccc) of Tax Clarity and Recorder of Deeds Temporary Act of 2002 (D.C. Law 14-191, October 5, 2002, law notification 49 DCR 9549).

For temporary (225 day) amendment of section, see § 12(ccc) of Tax Clarity and Related



Amendments Temporary Act of 2003 (D.C. Law 14-228, March 23, 2003, law notification 50 DCR 2741).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 12(bbb) of Tax Clarity and Recorder of Deeds Emergency Act of 2002 (D.C. Act 14-381, June 6, 2002, 49 DCR 5674).

For temporary (90 day) amendment of section, see § 12(ccc) of Tax Clarity and Related Amendments Emergency Act of 2002 (D.C. Act 14-456, July 23, 2002, 49 DCR 8107).

For temporary (90 day) amendment of section, see § 12(ccc) of Tax Clarity and Related Amendments Congressional Review Emergency Act of 2002 (D.C. Act 14-510, October 23, 2002, 49 DCR 10247).

For temporary (90 day) amendment of section, see §§ 1281(b), 1282, 1283 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

**Legislative history of Law 5-31.** — For legislative history of D.C. Law 5-31, see Historical and Statutory Notes following § 47-3501.

**Legislative history of Law 7-177.** — Law 7-177, the “Economic Development Zone Incen-

tives Amendment Act of 1988,” was introduced in Council and assigned Bill No. 7-208, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 28, 1988 and July 12, 1988, respectively. Signed by the Mayor on August 2, 1988, it was assigned Act No. 7-237 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 14-282.** — For Law 14-282, see notes following § 47-902.

**Legislative history of Law 16-33.** — For Law 16-33, see notes following § 47-308.01.

**Editor’s notes.** — Mayor authorized to issue rules: Section 13 of D.C. Law 7-177 provided that the Mayor shall issue rules to implement the provisions of the act.

Applicability and expiration of subtitle HH of title I, §§ 1280 to 1284, of D.C. Law 16-33: Sections 1282 and 1283 of D.C. Law 16-33, as amended by D.C. Law 17-219, § 7068(f), (g), provided:

“Sec. 1282. Applicability; conditional effect.

“(a) Section 1281 shall apply for taxable years beginning after September 30, 2005.

“(b) Repealed.

“Sec. 1283. Repealed.”

## § 47-3503. Exemptions for qualifying lower income homeownership households and cooperative housing associations.

(a)(1) Deeds to property transferred to a qualifying lower income homeownership household shall be exempt from the deed recordation tax pursuant to § 42-1102, if it meets the requirements of § 47-3502.

(2) Deeds to property transferred to a cooperative housing association, as that term is defined in § 47-803(2), shall be exempt from the deed recordation tax pursuant to § 42-1102, if the cooperative housing association qualifies for the real property tax exemption pursuant to subsection (c) of this section or if a return under oath, certifying the association’s intent to qualify for the real property tax exemption pursuant to subsection (c) of this section within 1 year, accompanies the deed at the time of its offer for recordation.

(3) Recordation of a construction loan deed of trust or mortgage, as that term is defined in § 42-1101(9), or a permanent loan deed of trust or mortgage, as that term is defined in § 42-1101(10), shall be exempt from the deed recordation tax pursuant to § 42-1102, if the property securing the deed of trust or mortgage is owned by or is being simultaneously transferred to a qualifying lower income homeownership household or a cooperative housing association qualified for the real property tax exemption pursuant to subsection (c) of this section or if a return under oath, certifying the association’s intent to qualify for the real property tax exemption pursuant to subsection (c) of this section, within 1 year, accompanies the deed at the time of its offer for recordation.

(b)(1) Transfers of property to a qualifying lower income homeownership household shall be exempt from the transfer tax pursuant to § 47-902, if:

(A) The household meets the requirements of § 47-3502; and

(B) The purchaser in fee simple or the persons acquiring qualified ownership interests under a shared equity financing agreement receive a credit against the purchase price of the property in an amount equal to the total tax which would have been due without regard to this section.

(2) Transfers of property to a cooperative housing association, as that term is defined in § 47-803(2), shall be exempt from the transfer tax pursuant to § 47-902, if:

(A) The cooperative housing association qualifies for the real property tax exemption pursuant to subsection (c) of this section or if a return under oath, certifying the association's intent to qualify for the real property tax exemption pursuant to subsection (c) of this section, within 1 year, accompanies the deed at the time of its offer for recordation; and

(B) The purchaser receives a credit against the purchase price of the property in an amount equal to the total tax that would have been due without regard to this paragraph.

(c)(1) For purposes of this subsection, the term "cooperative housing association" has the same meaning given the term in § 47-803(2).

(2) Property transferred to a qualifying lower income homeownership household shall be exempt from real property tax pursuant to § 47-1002, if:

(A) The household meets the requirements of § 47-3502; and

(B) In the case of a qualifying lower income homeownership household under § 47-3502(2)(B), the household receives a credit against rent equal to that percentage of the real property tax that would have been due on the property without regard to this section which bears the same relation to the total real property tax that would have been due on the property without regard to this section as 100% minus the percentage of the household's qualified ownership interest bears to 100%.

(3) The exemption provided by this subsection shall apply to property owned by a cooperative housing association if at least 50% of the dwelling units contained therein are occupied by households which meet the income limitations and conditions of transfer described in § 47-3502 and the credit against rent requirement described in paragraph (2)(B) of this subsection.

(4) The exemption provided by this subsection shall be in effect only until the end of the fifth tax year following the year in which the property was transferred to the household and only so long as the same household is an owner and occupant of the property or in the case of a cooperative housing association, only so long as at least 50% of the dwelling units contained therein are occupied by households which meet the income limitations and conditions of transfer described in § 47-3502 and the credit against rent requirement described in paragraph (2)(B) of this subsection.

(5)(A) A real property receiving the exemption under this subsection shall be deemed to be receiving the homestead deduction under § 47-850 or § 47-850.01 for purposes of § 47-864; provided, that there is an approved and current homestead application on file applicable to the entire tax year following the expiration of the exemption.

(B) The application of subparagraph (A) of this paragraph shall be limited as follows:



(i) The credit under § 47-864 that may result for the tax year beginning October 1, 2006 shall be nonrefundable and shall be applied to the real property tax owed for the tax year beginning October 1, 2007, and thereafter.

(ii) No credit under § 47-864 shall be allowed for a tax year prior to the tax year beginning October 1, 2006.

(iii) Subparagraph (A) of this paragraph shall not apply if the ownership has not been continuous from the date that the exemption provided by this subsection has been validly in effect.

(Oct. 8, 1983, D.C. Law 5-31, § 4, 30 DCR 3879; Mar. 16, 1989, D.C. Law 7-205, § 3(a), 36 DCR 457; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Mar. 2, 2007, D.C. Law 16-192, § 1102, 53 DCR 6899; July 18, 2008, D.C. Law 17-180, § 2, 55 DCR 6255.))

**Cross references.** — Deeds, recordation tax, exempt deeds, see § 42-1102.

Real property assessment and tax, additional definitions, see § 47-803.

Real property exempt from taxation, enumerated, see § 47-1002.

Real property transfer tax, exempt transfers, see § 47-902.

**Section references.** — This section is referred to in §§ 47-3504, 47-3505 and 47-3506.

**Prior Codifications.** — 1981 Ed., § 47-3503.

**Effect of amendments.** — D.C. Law 16-192 added subsec. (c)(5).

D.C. Law 17-180, in subsec. (c)(5), designated subpar. (A) and added subpar. (B).

**Temporary Amendment of Section.** — Section 2 of D.C. Law 16-258, in subsec. (c)(5), designated the existing text as subpar. (A), and added subpar. (B) to read as follows:

“(B) The application of subparagraph (A) of this paragraph shall be limited as follows:

“(i) The credit under § 47-864 that may result for the tax year beginning October 1, 2006 shall be nonrefundable and shall be applied to the real property tax owed for the tax year beginning October 1, 2007, and thereafter.

“(ii) No credit under § 47-864 shall be allowed for a tax year prior to the tax year beginning October 1, 2006.

“(iii) Subparagraph (A) of this paragraph shall not apply if the ownership has not been continuous from the date that the exemption provided by this subsection has been validly in effect.”

Section 4(b) of D.C. Law 16-258 provided that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 17-95, in subsec. (c)(5), designated the existing text as subpar. (A) and added subpar. (B) to read as follows:

“(B) The application of subparagraph (A) of this paragraph shall be limited as follows:

“(i) The credit under § 47-864.01 that may result for the tax year beginning October 1, 2006 shall be nonrefundable and shall be applied to the real property tax owed for the tax year beginning October 1, 2007, and thereafter.

“(ii) No credit under § 47-864.01 shall be allowed for a tax year prior to the tax year beginning October 1, 2006.

“(iii) Subparagraph (A) of this paragraph shall not apply if the ownership has not been continuous from the date that the exemption provided by this subsection has been validly in effect.”

Section 4(b) of D.C. Law 17-95 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of sections, see § 1102 of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see § 1102 of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see § 2 of Lower Income Homeownership Cooperative Housing Association Re-Clarification Emergency Act of 2006 (D.C. Act 16-574, December 19, 2006, 54 DCR 22).

For temporary (90 day) amendment of section, see § 1102 of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

For temporary (90 day) amendment of section, see § 2 of Lower Income Homeownership Cooperative Housing Association Re-Clarification Emergency Act of 2007 (D.C. Act 17-147, October 17, 2007, 54 DCR 10756).

For temporary (90 day) repeal of section 3 of D.C. Law 17-180, see § 7022 of Fiscal Year

2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal of section 3 of D.C. Law 17-180, see § 7022 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 5-31.** — For legislative history of D.C. Law 5-31, see Historical and Statutory Notes following § 47-3501.

**Legislative history of Law 7-205.** — Law 7-205, the “Cooperative Housing Assessment Procedure and Lower Income Homeownership Tax Abatement and Incentives Act of 1988,” was introduced in Council and assigned Bill No. 7-548, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 29, 1988 and December 13, 1988, respectively. Signed by the Mayor on January 6, 1989, it was assigned Act No. 7-276 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 16-192.** — For Law 16-192, see notes following § 47-2608.

**Legislative history of Law 17-180.** — Law 17-180, the “Lower Income Homeownership Cooperative Housing Association Re-Clarification Act of 2008”, was introduced in Council and assigned Bill No. 17-71 which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 1, 2008, and May 6, 2008, respectively. Signed by the Mayor on May 20, 2008, it was assigned Act No. 17-373 and transmitted to

both Houses of Congress for its review. D.C. Law 17-180 became effective on July 18, 2008.

**Short title.** — Short title: Section 1101 of D.C. Law 16-192 provided that subtitle I of title I of the act may be cited as the “Lower Income Homeownership Cooperative Housing Association Clarification Act of 2006”.

**Editor’s notes.** — Section 3 of D.C. Law 17-180 provided: “Sec. 3. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.”

Section 7022 of D.C. Law 18-111 repealed section 3 of D.C. Law 17-180.

Exemptions granted to Sursum Corda Cooperative Association, Inc.: D.C. Law 9-20, effective August 17, 1991, temporarily clarified that the Sursum Corda Cooperative Association, Inc., qualifies as a cooperative housing association for the exemption from deed recordation, transfer, and real property taxes, and provided the Sursum Corda Cooperative Association, Inc., with equitable relief from water and sewer service charges. Section 4(b) of D.C. Law 9-20 provided that the act shall expire on the 225th day of its having taken effect or upon the date of the Sursum Corda Cooperative Association, Inc. Act of 1991, whichever occurs first.

D.C. Law 9-60, effective Mar. 7, 1992, the Sursum Corda Cooperative Association, Inc., Clarification Act of 1991, clarified that the Sursum Corda Cooperative Association, Inc., qualifies as a cooperative housing association for the exemption from deed recordation, transfer, and real property taxes, and provided the Sursum Corda Cooperative Association, Inc., with equitable relief from water and sewer service charges.

## § 47-3504. Exemptions for qualifying lower income homeownership households and cooperative housing associations — Administration and enforcement.

(a) The Mayor shall assume that a shared equity financing agreement meets the requirements of §§ 47-3502 and 47-3503 if the persons acquiring qualified ownership interests in the property pursuant to the shared equity financing agreement certify that the agreement is intended to do so. The Mayor may verify the contents of the certification and the shared equity financing agreement.

(b) If within 3 years of the filing of the certification under subsection (a) of this section the Mayor determines that the shared equity financing agreement does not meet the requirements of §§ 47-3502 and 47-3503, the Mayor shall disallow the exemptions granted under § 47-3503.

(c) If the noncompliance with any requirement of § 47-3502 or § 47-3503 is cured within 90 days of the receipt of a notice of noncompliance from the Mayor, the exemptions shall not be disallowed.

(d) For exemptions granted under § 47-3503(a) or (b), or both, and disal-



lowed under subsection (b) of this section, there shall be due to the Mayor the total tax which would have been due without the exemptions, plus a penalty equal to 10% of the tax. For exemptions granted under § 47-3503(c) and disallowed under subsection (b) of this section, the property shall be reclassified in accordance with the provisions of § 47-813, and shall be taxed at the appropriate rate of taxation for that class, plus a penalty equal to 10% of the tax.

(e) In regard to a shared equity financing agreement's compliance with the requirements of 26 U.S.C. § 280A(d)(3), for the purposes of this section and § 47-802(5), the Mayor shall assume that the compliance exists unless a contrary ruling or determination has been made by the Internal Revenue Service or other competent federal authority.

(f) If any person, organization, association, corporation, or other entity shall willfully make a false statement concerning any information required to be supplied on the certification under subsection (a) of this section, the person, organization, association, corporation, or other entity shall be deemed guilty of the offense of making false statements and, upon conviction thereof, shall be subject to the penalties for that offense provided for by § 22-2405(b).

(g) If the household which is exempt under this chapter no longer qualifies under the income limitations set forth under § 47-3502, the Mayor shall rescind the exemption as of the first full tax year following the date the household ceased to continue to qualify for the exemption. The real property tax shall be owed in the same manner as real property tax is owed for an erroneous or improper homestead deduction under § 47-850.02(c).

(h) The Mayor may contract with a collection agency to determine the eligibility or continued eligibility for the exemption granted under this chapter in the same manner and to the same extent as provided under § 47-850.02(d) for homestead deduction audits.

(Oct. 8, 1983, D.C. Law 5-31, § 5, 30 DCR 3879; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 4, 2003, D.C. Law 14-282, § 11(vv), 50 DCR 896.)

**Cross references.** — Perjury and related offenses, false statements, penalty, see § 22-2405.

Real property assessment and tax, classes of property established and defined, see § 47-813.

**Prior Codifications.** — 1981 Ed., § 47-3504.

**Effect of amendments.** — D.C. Law 14-282 added subsecs. (g) and (h).

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 12(ddd) of Tax Clarity and Recorder of Deeds Temporary Act of 2002 (D.C. Law 14-191, October 5, 2002, law notification 49 DCR 9549).

For temporary (225 day) amendment of section, see § 12(ddd) of Tax Clarity and Related Amendments Temporary Act of 2003 (D.C. Law 14-228, March 23, 2003, law notification 50 DCR 2741).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 12(ccc) of Tax Clarity and Recorder of Deeds Emergency Act of 2002 (D.C. Act 14-381, June 6, 2002, 49 DCR 5674).

For temporary (90 day) amendment of section, see § 12(ddd) of Tax Clarity and Related Amendments Emergency Act of 2002 (D.C. Act 14-456, July 23, 2002, 49 DCR 8107).

For temporary (90 day) amendment of section, see § 12(ddd) of Tax Clarity and Related Amendments Emergency Act of 2002 (D.C. Act 14-510, October 23, 2002, 49 DCR 10247).

**Legislative history of Law 5-31.** — For legislative history of D.C. Law 5-31, see Historical and Statutory Notes following § 47-3501.

**Legislative history of Law 14-282.** — For Law 14-282, see notes following § 47-902.

**§ 47-3505. Nonprofit housing organizations — Qualifications; exemptions.**

(a) In order to qualify for an exemption under this section, a nonprofit housing organization shall have been approved by the Internal Revenue Service as exempt from federal income tax under 26 U.S.C. § 501(c)(3) or (4).

(b) Transfers of property to a qualifying nonprofit housing organization shall be exempt from the transfer tax pursuant to § 47-902, if:

(1) A return under oath, certifying the organization's intent to transfer the property, within 36 months, to a household (or to households in at least 35% of the units in a multifamily property) subject to the income limitations and conditions of transfer described in § 47-3502 or to a cooperative housing association exempt from the deed recordation tax pursuant to § 47-3503(a)(2), accompanies the deed at the time of its offer for recordation; and

(2) The purchaser receives a credit against the purchase price of the property in an amount equal to the total tax that would have been due without regard to this subsection.

(c)(1) Deeds of property transferred to a qualifying nonprofit housing organization shall be exempt from the deed recordation tax pursuant to § 42-1102, if a return under oath, certifying the organization's intent to transfer the property within 36 months to a household (or to households in at least 35% of the units in a multifamily property) subject to the income limitations and conditions of transfer described in § 47-3502 or to a cooperative housing association exempt from the deed recordation tax pursuant to § 47-3503(a)(2), accompanies the deed at the time of its offer for recordation.

(2) Recordation of a construction loan deed of trust or mortgage, as that term is defined in § 42-1101(9), or a permanent loan deed of trust or mortgage, as that term is defined in § 42-1101(10), shall be exempt from the deed recordation tax pursuant to § 42-1102, if the property securing the deed of trust or mortgage is owned by or is being simultaneously transferred to a qualifying nonprofit housing organization.

(d) Property transferred to a qualifying nonprofit housing organization shall be exempt from the real property tax pursuant to § 47-1002, through the end of the third tax year following the year in which the property was transferred to the organization if a return under oath, certifying the organization's intent to transfer the property within 1 year to a household (or to households in at least 35% of the units in a multifamily property) subject to the income limitations and conditions of transfer in § 47-3502 or to a cooperative housing association exempt from the deed recordation tax pursuant to § 47-3503(a)(2), accompanies the deed at the time of its offer for recordation.

(e) A qualifying nonprofit housing organization shall be exempt from the provisions of Chapter 17 of Title 42.

(f)(1) Subject to the requirements of paragraphs (2) and (3) of this subsection, any nonprofit organization that has been denied exemption from District of Columbia real property taxes pursuant to § 47-1002 and has acquired property to develop more than 10 units of housing for affordable or lower income homeownership households in the District of Columbia and subdivides



the acquired property into more than 10 units shall have 2 years from the date of the subdivision of the property to hold the property as exempt from the recordation, transfer, and real property taxes associated with the acquisition and development of the property for low-income or affordable housing.

(2) Recordation, transfer, and real property tax assessments associated with the acquisition of a property under paragraph (1) of this subsection shall not be assessed against a nonprofit organization that acquires property and subdivides it for resale into more than 10 units to low-income home owners when the first low-income home owner purchases a home within 2 years of the subdivision of the real property into lots on the records and cadastral maps of the Office of Tax and Revenue.

(3) Real property owned or acquired by a nonprofit organization shall be exempt from recordation, transfer and real property taxes if the nonprofit organization subdivides the property into more than 10 units of low-income housing and completes the sale of all units of low-income housing on the property within 4 years from the date of acquisition.

(Oct. 8, 1983, D.C. Law 5-31, § 6, 30 DCR 3879; Mar. 16, 1989, D.C. Law 7-205, § 3(b), 36 DCR 457; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Oct. 20, 2005, D.C. Law 16-33, §§ 1182, 1281(c), 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-191, § 5(f) 53 DCR 6794.))

**Cross references.** — Deeds, recordation tax, exempt deeds, see § 42-1102.

Real property exempt from taxation, enumerated, see § 47-1002.

Real property transfer tax, exempt transfers, see § 47-902.

Special rules for real estate brokers, salespersons and property managers, licensure requirement exemptions, see § 47-2853.181.

**Section references.** — This section is referred to in § 47-3506.

**Prior Codifications.** — 1981 Ed., § 47-3505.

**Effect of amendments.** — D.C. Law 16-33, § 1182, added subsec. (f).

D.C. Law 16-33, § 1281(c), in subssecs. (b)(1) and (c)(1), substituted “within 36 months” for “within 1 year”; and, in subsec. (d), substituted “third tax year” for “first tax year”.

D.C. Law 16-191, in subsec. (f), validated a previously made technical correction.

**Temporary Amendment of Section.** — Section 2 of D.C. Law 15-345 added subsec. (f) to read as follows:

“(f)(1) Beginning October 1, 2002, any nonprofit organization that has (i) acquired property to develop more than 10 units of housing for affordable or lower income home ownership in the District of Columbia, (ii) subdivided the acquired property into more than 10 units, and (iii) been denied exemption from District of Columbia real property taxes pursuant to § 47-1002 shall have 2 years from the date of the subdivision of the property to hold the property

without liability for the recordation, transfer, or real property taxes associated with the acquisition and development of the property.

“(2) Beginning October 1, 2002, no recordation, transfer, or real property taxes associated with the acquisition of properties pursuant to paragraph (1) of this subsection shall be assessed against the nonprofit organization if it is not liable for taxes pursuant to paragraph (1) of this subsection.”

Section 5(b) of D.C. Law 15-345 provided that the act shall expire after 225 days of its having taken effect.

Section 4(a) of D.C. Law 16-102 rewrote subsec. (f) to read as follows:

“(f)(1) Subject to the requirements of paragraphs (2) and (3) of this subsection, any nonprofit organization that has been denied exemption from District of Columbia real property taxes pursuant to § 47-1002 and has acquired property to develop more than 10 units of housing for affordable or lower income homeownership households in the District of Columbia and subdivides the acquired property into more than 10 units shall have 2 years from the date of the subdivision of the property to hold the property as exempt from the recordation, transfer, and real property taxes associated with the acquisition and development of the property for low-income or affordable housing.

“(2) Recordation, transfer, and real property tax assessments associated with the acquisition of a property under paragraph (1) of this

subsection shall not be assessed against a nonprofit organization that acquires property and subdivides it for resale into more than 10 units to low-income home owners when the first low-income home owner purchases a home within 2 years of the subdivision of the real property into lots on the records and cadastral maps of the Office of Tax and Revenue.

“(3) Real property owned or acquired by a nonprofit organization shall be exempt from recordation, transfer and real property taxes if the nonprofit organization subdivides the property into more than 10 units of low-income housing and completes the sale of all units of low-income housing on the property within 4 years from the date of acquisition.”

Section 11(b) of D.C. Law 16-102 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2 of Nonprofit Housing Organizations Tax Exemption Emergency Act of 2004 (D.C. Act 15-732, January 19, 2005, 52 DCR 1962).

For temporary (90 day) amendment of section, see §§ 1182, 1183, 1281(c), 1282, 1283 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 4 of Finance and Revenue Technical Amendments Emergency Amendment Act of 2006 (D.C. Act 16-260, January 26, 2006, 53 DCR 780).

For temporary (90 day) amendment of section, see § 4 of Finance and Revenue Technical Amendments Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-361, April 26, 2006, 53 DCR 3619).

For temporary (90 day) amendment of section, see § 3(b) of Finance and Revenue Technical Amendments Second Emergency Amend-

ment Act of 2006 (D.C. Act 16-585, December 28, 2006, 54 DCR 340).

**Legislative history of Law 5-31.** — For legislative history of D.C. Law 5-31, see Historical and Statutory Notes following § 47-3501.

**Legislative history of Law 7-205.** — For legislative history of D.C. Law 7-205, see Historical and Statutory Notes following § 47-3503.

**Legislative history of Law 15-345.** — Law 15-345, the “Nonprofit Housing Organizations Tax Exemption Temporary Act of 2004”, was introduced in Council and assigned Bill No. 15-1180 and was retained by Council. The Bill was adopted on first and second readings on December 21, 2004, and January 4, 2005, respectively. Signed by the Mayor on January 19, 2005, it was assigned Act No. 15-763 and transmitted to both Houses of Congress for its review. D.C. Law 15-345 became effective on April 12, 2005.

**Legislative history of Law 16-33.** — For Law 16-33, see notes following § 47-308.01.

**Legislative history of Law 16-191.** — For Law 16-191, see notes following § 47-2425.

**Short title.** — Short title of subtitle W of title I of Law 16-33: Section 1181 of D.C. Law 16-33 provided that subtitle W of title I of the act may be cited as the Dupont Commons Low-Income Housing Tax Relief Act of 2005.

**Editor’s notes.** — Applicability and expiration of subtitle HH of title I, §§ 1280 to 1284, of D.C. Law 16-33: Sections 1282 and 1283 of D.C. Law 16-33, as amended by D.C. Law 17-219, § 7068(f), (g), provided:

“Sec. 1282. Applicability; conditional effect.

“(a) Section 1281 shall apply for taxable years beginning after September 30, 2005.

“(b) Repealed.

“Sec. 1283. Repealed.”

Section 1183 of D.C. Law 16-33 provided that § 1182 shall apply to real property exemption applications filed on or after January 1, 2001.

## § 47-3506. Administration and enforcement — Qualifying nonprofit housing organizations and cooperative housing associations.

(a)(1) If a qualifying nonprofit housing organization fails to transfer the property within 36 months as required by § 47-3505, the Mayor shall disallow the exemptions provided by § 47-3505 and the organization shall pay to the Mayor:

(A) The total tax which would have been due without the exemption;

(B) Interest at the rate of 1¼% per month, or fraction of a month, from the date prescribed for the payment of the tax without regard to the exemptions until the date paid; and

(C) A penalty equal to 10% of the tax. The Mayor may, for good cause shown, extend the time for transfer of the property for an additional period not



to exceed 6 months, if the cooperative housing association files a request for extension, in writing, with the Mayor within 30 days after the expiration of the 36-month period.

(2) If a cooperative housing association fails to qualify for the real property tax exemption within 36 months as required by § 47-3503, the Mayor shall disallow the exemption provided by § 47-3503 and the association shall pay to the Mayor:

(A) The total tax which would have been due without the exemptions;

(B) Interest at the rate of 1¼% per month, or fraction of a month, from the date prescribed for the payment of the tax without regard to the exemptions until the date paid; and

(C) A penalty equal to 10% of the tax. The Mayor may, for good cause shown, extend the time for transfer of the property for an additional period not to exceed 6 months, if the cooperative housing association files a request for extension, in writing, with the Mayor within 30 days after the expiration of the 36-month period.

(b) If an association or organization shall willfully make a false statement concerning any information required to be supplied on the certification under § 47-3503 or § 47-3505, the association or organization shall be deemed guilty of the offense of making false statements and, upon conviction, shall be subject to the penalty for that offense provided in § 22-2405(b).

(Oct. 8, 1983, D.C. Law 5-31, § 7, 30 DCR 3879; Mar. 16, 1989, D.C. Law 7-205, § 3(c), 36 DCR 457; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Oct. 20, 2005, D.C. Law 16-33, § 1281(d), 52 DCR 7503.)

**Cross references.** — Perjury and related offenses, false statements, penalty, see § 22-2405.

**Prior Codifications.** — 1981 Ed., § 47-3506.

**Effect of amendments.** — D.C. Law 16-33, in subsec. (a), substituted “within 36 months” for “within 1 year”; and, in subsecs. (a)(1)(C) and (a)(2)(C), substituted “6 months” for “90 days” and substituted “36-month period” for “1-year period”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see §§ 1281(d), 1282, 1283 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

**Legislative history of Law 5-31.** — For legislative history of D.C. Law 5-31, see Historical and Statutory Notes following § 47-3501.

**Legislative history of Law 7-205.** — For legislative history of D.C. Law 7-205, see Historical and Statutory Notes following § 47-3503.

**Legislative history of Law 16-33.** — For Law 16-33, see notes following § 47-308.01.

**Editor’s notes.** — Applicability and expiration of subtitle HH of title I, §§ 1280 to 1284, of D.C. Law 16-33: Sections 1282 and 1283 of D.C. Law 16-33, as amended by D.C. Law 17-219, § 7068(f), (g), provided:

“Sec. 1282. Applicability; conditional effect.

“(a) Section 1281 shall apply for taxable years beginning after September 30, 2005.

“(b) Repealed.

“Sec. 1283. Repealed.”

## § 47-3506.01. Resident management corporations — Qualifications; exemptions.

(a) In order to qualify for an exemption under this section, a resident management corporation shall meet the requirements of section 20 of the United States Housing Act of 1937 (42 U.S.C. § 1437r).

(b) Real property transferred to a qualifying resident management corpo-

ration pursuant, to section 21 of the United States Housing Act of 1937 (42 U.S.C. 1437s), shall be exempt from:

- (1) The deed recordation tax pursuant to § 42-1102;
- (2) The transfer tax pursuant to § 47-902; and
- (3) The real property tax pursuant to § 47-1002, through the end of the 10th tax year following the year in which the property is transferred to the resident management corporation.

(c) This section shall apply to real property transferred to all qualifying resident management corporations on, before, or after June 11, 1992. Any taxes owed by a qualifying resident management corporation prior to the enactment of the Public Housing Homeownership Tax Abatement Amendment Act of 1992, which are exempted by the Public Housing Homeownership Tax Abatement Amendment Act of 1992, shall be forgiven. Any taxes paid by a qualifying resident management corporation prior to the enactment of the Public Housing Homeownership Tax Abatement Amendment Act of 1992, which are exempted by the Public Housing Homeownership Tax Abatement Amendment Act of 1992, shall be refunded.

(Oct. 8, 1983, D.C. Law 5-31, § 7a, as added June 11, 1992, D.C. Law 9-120, § 2, 39 DCR 3195; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Deeds, recordation tax, exempt deeds, see § 42-1102.

Real property exempt from taxation, enumerated, see § 47-1002.

Real property transfer tax, exempt transfers, see § 47-902.

**Prior Codifications.** — 1981 Ed., § 47-3506.1.

**Legislative history of Law 9-120.** — Law 9-120, the “Public Housing Homeownership Tax Abatement Amendment Act of 1992,” was introduced in Council and assigned Bill No. 9-356, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 3, 1992, and April 7,

1992, respectively. Signed by the Mayor on April 24, 1992, it was assigned Act No. 9-194 and transmitted to both Houses of Congress for its review. D.C. Law 9-120 became effective on June 11, 1992.

**References in text.** — The “Public Housing Homeownership Tax Abatement Amendment Act of 1992,” referred to in four places in (c), is D.C. Law 9-120, codified as §§ 34-2413.02, 34-2105.05, 42-1102, 47-902, 47-1002 and this section.

**Editor’s notes.** — Mayor authorized to issue rules: Section 5 of D.C. Law 9-120 provided that the Mayor may issue rules to implement the provisions of the act.

## § 47-3507. Certification of program providing low income rental housing.

For the purposes of qualifying for the depreciation deduction provided by 26 U.S.C. § 167(k)(2)(B), an investor in a shared equity financing agreement, which qualifies for the benefits provided by the Lower Income Homeownership Tax Abatement and Incentives Act of 1983, and who meets the other requirements of 26 U.S.C. § 167(k)(2)(B), shall be deemed to have conducted rehabilitation pursuant to a program certified by the District of Columbia government if the investor certifies to the Mayor the amount of the rehabilitation expenditures.

(Oct. 8, 1983, D.C. Law 5-31, § 8, 30 DCR 3879; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)



**Cross references.** — Income and franchise taxes, deductions, depreciation, see § 47-1803.03.

**Prior Codifications.** — 1981 Ed., § 47-3507.

**Legislative history of Law 5-31.** — For legislative history of D.C. Law 5-31, see Historical and Statutory Notes following § 47-3501.

**References in text.** — The “Lower Income Homeownership Tax Abatement and Incentives

Act of 1983,” referred to in this section, is D.C. Law 5-31.

**Delegation of Authority.** — Delegation of authority under Law 5-31, see Mayor’s Order 83-270, November 16, 1983.

**Editor’s notes.** — Mayor authorized to issue rules: Section 9 of D.C. Law 5-31 provided that the Mayor shall issue rules necessary to carry out the provisions of §§ 47-3502 to 47-3507.

## § 47-3508. Regulations.

The Mayor may promulgate regulations to carry out the purposes of this chapter.

(Apr. 4, 2003, D.C. Law 14-282, § 11(ww), 50 DCR 896.)

**Temporary Addition of Section.** — For temporary (225 day) addition of section, see § 12(eee) of Tax Clarity and Recorder of Deeds Temporary Act of 2002 (D.C. Law 14-191, October 5, 2002, law notification 49 DCR 9549).

For temporary (225 day) addition of section, see § 12(eee) of Tax Clarity and Related Amendments Temporary Act of 2003 (D.C. Law 14-228, March 23, 2003, law notification 50 DCR 2741).

**Emergency legislation.** — For temporary (90 day) addition of this section, see § 12(ddd) of Tax Clarity and Recorder of Deeds Emergency Act of 2002 (D.C. Act 14-381, June 6, 2002, 49 DCR 5674).

For temporary (90 day) addition of this section, see § 12(eee) of Tax Clarity and Related Amendments Emergency Act of 2002 (D.C. Act 14-456, July 23, 2002, 49 DCR 8107).

For temporary (90 day) addition of this section, see § 12(eee) of Tax Clarity and Related Amendments Congressional Review Emergency Act of 2002 (D.C. Act 14-510, October 23, 2002, 49 DCR 10247).

**Legislative history of Law 5-31.** — For legislative history of D.C. Law 5-31, see Historical and Statutory Notes following § 47-3501.

**Legislative history of Law 14-282.** — For Law 14-282, see notes following § 47-902.

CHAPTER 36. EMPLOYEE DEFERRED COMPENSATION PROGRAM.

Sec.

47-3601. Authorized; treatment of benefits; employee eligibility; exclusion from certain review and collective bargaining provisions.

Sec.

47-3602. Regulations.  
47-3603. Contracts for services.  
47-3604. Annual report.

**§ 47-3601. Authorized; treatment of benefits; employee eligibility; exclusion from certain review and collective bargaining provisions.**

(a)(1) There shall be established an employee deferred compensation program which meets the requirements of this section and § 457 of the Internal Revenue Code of 1954 and the regulations and interpretations thereunder.

(2) The employee deferred compensation program shall be in addition to any other retirement, pension, or benefit system established by law, and no deferral of income under the employee deferred compensation program shall effect a reduction of the amount of any other retirement, pension or other benefit provided by law. Any amount deferred under the employee deferred compensation program shall be included in the employee's compensation for purposes of computing contributions to existing life insurance, retirement systems, F.I.C.A. or any other system keyed to the employee's scheduled rate of pay, but shall not be included for the purposes of computing federal or District income tax withholdings on behalf of any such employee.

(3) Any amount of compensation deferred under the employee deferred compensation program and any income attributable to the amount so deferred, shall be includible in the employee's District gross income pursuant to Chapter 18 of this title only for the taxable years in which such compensation or other income is paid or otherwise made available to the employee or other beneficiary, and shall be subject to District income tax withholding for such year pursuant to Chapter 18 of this title.

(b) Members of boards and commissions whose pay is set under § 1-611.08 shall not be eligible to participate in the employee deferred compensation program.

(c) The Mayor may enter into an agreement with any personnel authority or independent agency for the purpose of extending to the employees of such personnel authority or independent agency eligibility to participate in the employee deferred compensation program.

(d) The provisions of this section are not subject to review by the Office of Employee Appeals under subchapter VI of Chapter 6 of Title 1, nor are they subject to the provisions of subchapter XVII of Chapter 6 of Title 1, concerning collective bargaining.

(Sept. 26, 1984, D.C. Law 5-118, § 2, 31 DCR 4034; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Cross references.** — Income and franchise taxes, gross income inclusions and exclusions, deferred compensation, see § 47-1803.02.

**Prior Codifications.** — 1981 Ed., § 47-3601.

**Legislative history of Law 5-118.** — Law



5-118, the "Deferred Compensation Act of 1984," was introduced in Council and assigned Bill No. 5-177, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 26, 1984 and July 10, 1984, respectively. Signed by the Mayor on July 13, 1984, it was assigned Act No. 5-170 and transmitted to both Houses of Congress for its review.

**References in text.** — Section 457 of the Internal Revenue Code of 1954, referred to in paragraph (1) of subsection (a) of this section, is classified to 26 U.S.C. § 457.

**Delegation of Authority.** — Delegation of authority under D.C. Law 5-118, see Mayor's Order 85-64, May 20, 1985.

## § 47-3602. Regulations.

The Mayor shall promulgate regulations which enable employees to participate in a voluntary tax-sheltered income deferment program which meets the requirements of § 457 of the Internal Revenue Code of 1954, and the regulations and interpretations thereunder. The regulations shall include, but not be limited to:

(1) Provision for the receipt of the compensation deferred and for the use of such funds in accordance with any investment election permitted employees participating in the employee deferred compensation program;

(2) Provision for a contract agreement between the Mayor and any employee who desires to defer compensation under the employee deferred compensation program; and

(3) Provision for and limitations on the types of instruments, securities, accounts or other items in which compensation deferred under the employee deferred compensation program may be invested.

(Sept. 26, 1984, D.C. Law 5-118, § 3, 31 DCR 4034; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3602.

**Legislative history of Law 5-118.** — For legislative history of D.C. Law 5-118, see Historical and Statutory Notes following § 47-3601.

**References in text.** — Section 457 of the

Internal Revenue Code of 1954, referred to in the first sentence of the introductory language of the section, is classified to 26 U.S.C. § 457.

**Editor's notes.** — District of Columbia Deferred Compensation Committee Established: See Mayor's Order 85-135, August 2, 1985.

## § 47-3603. Contracts for services.

(a) The Mayor may select 1 or more contractors to provide such services as may be part of the employee deferred compensation program.

(b) The cost of any contract for provision of such services as may be part of the employee deferred compensation program shall be financed solely from employee contributions to the employee deferred compensation program or from a fund or funds established to administer the employee deferred compensation program.

(Sept. 26, 1984, D.C. Law 5-118, § 4, 31 DCR 4034; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3603.

**Legislative history of Law 5-118.** — For

legislative history of D.C. Law 5-118, see Historical and Statutory Notes following § 47-3601.

§ 47-3604. Annual report.

The Mayor shall, before February 2nd each year, submit to the Council an annual report which details the activities, and operation of the employee deferred compensation program for the preceding fiscal year.

(Sept. 26, 1984, D.C. Law 5-118, § 5, 31 DCR 4034; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3604. legislative history of D.C. Law 5-118, see Historical and Statutory Notes following § 47-3601.

**Legislative history of Law 5-118.** — For



CHAPTER 37. INHERITANCE AND ESTATE TAXES.

Sec.	Sec.
47-3701. Definitions.	47-3712. Liability of personal representative.
47-3702. Tax on transfer of taxable estate of residents; amounts; credit; property of resident defined.	47-3713. Duty of personal representative.
47-3703. Tax on transfer of taxable estate of nonresidents; property of nonresident defined.	47-3714. Apportionment required.
47-3704. Authority for Mayor to compromise tax.	47-3715. Monthly report of Register of Wills.
47-3705. Filing returns; payment of tax due.	47-3716. Final account.
47-3706. [Repealed].	47-3717. Authority of Mayor to determine tax; deficiencies in tax.
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47-3709. [Repealed].	47-3720. Rules.
47-3710. Certification of payment by Mayor.	47-3721. Report by Mayor concerning amendment, repeal, or replacement of Internal Revenue Code of 1954.
47-3711. [Repealed].	47-3722. Effect of repealers.
	47-3723. Applicability.

§ 47-3701. Definitions.

For the purpose of this chapter, the term:

- (1) "Council" means the Council of the District of Columbia.
- (2) "Decedent" means a deceased person who died on or after April 1, 1987.
- (3) "District" means the District of Columbia.
- (3A) "Domestic partner" shall have the same meaning as provided in § 32-701(3).
- (4) "Federal credit" means:
  - (A) For a decedent whose death occurs on or after April 1, 1987, but prior to January 1, 2002, the maximum amount of credit for state death taxes allowable by section 2011 of the United States Internal Revenue Code of 1954, approved August 6, 1954 (68A Stat. 3; 26 U.S.C. § 1 et seq.), as it existed on January 1, 1986.
  - (B) For a decedent whose death occurs on or after January 1, 2002:
    - (i) The maximum amount of credit for state death taxes allowed by section 2011 of the Internal Revenue Code [26 U.S.C. § 2011];
    - (ii) Any scheduled increase in the unified credit provided in section 2010 of the Internal Revenue Code [26 U.S.C. § 2010] or thereafter shall not apply and the amount of the unified credit shall be \$220,550; and
    - (iii) An estate tax return shall not be required to be filed if the decedent's gross estate does not exceed \$675,000.
  - (C) For a decedent whose death occurs on or after January 1, 2003:
    - (i) The maximum amount of credit for state death taxes allowed by section 2011 of the Internal Revenue Code;
    - (ii) Any scheduled increase in the unified credit provided in section 2010 of the Internal Revenue Code or thereafter shall not apply and the amount of the unified credit shall be \$345,800; and
    - (iii) An estate tax return shall not be required to be filed if the decedent's gross estate does not exceed \$1 million.
- (5) "Gross estate" means:

(A) For a decedent whose death occurs prior to January 1, 2008, the meaning defined in the Internal Revenue Code.

(B) For a decedent whose death occurs on or subsequent to January 1, 2008, the meaning defined in the Internal Revenue Code, except that for the purpose of calculating District estate taxes, gross estate shall be calculated as if federal estate tax law recognized a domestic partner in the same manner as a spouse.

(6) "Internal Revenue Code" means the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 1 et seq.), in effect for federal estate tax purposes on January 1, 2001, unless a different meaning is clearly required by the provisions of this chapter.

(7) "Mayor" means the Mayor of the District of Columbia.

(8) "Nonresident" means a decedent who was domiciled outside the District at his death.

(9) "Personal representative" means the personal representative or other person appointed by the court to administer the property of the decedent. If there is no personal representative or other person appointed, qualified, and acting within the District, then any person in actual or constructive possession of any property having a situs in the District that is included in the federal gross estate of the decedent shall be deemed to be a personal representative to the extent of the property and the District estate tax due with respect to the property.

(10) "Resident" means a decedent who was domiciled in the District at his or her death.

(11) "State" means any state, territory, or possession of the United States and the District.

(12) "Taxable estate" means:

(A) For a decedent whose death occurs prior to January 1, 2008, the meaning defined in section 2501 of the Internal Revenue Code of 1954.

(B) For a decedent whose death occurs on or subsequent to January 1, 2008, the meaning defined in section 2501 of the Internal Revenue Code of 1954, except that for the purpose of calculating District estate taxes, taxable estate shall be calculated as if federal estate tax law recognized a domestic partner in the same manner as a spouse.

(13) "Value" means value as finally determined for federal estate tax purposes under the Internal Revenue Code of 1954.

(Feb. 24, 1987, D.C. Law 6-168, § 2, 33 DCR 7008; Feb. 28, 1987, D.C. Law 6-209, § 402(a), 34 DCR 689; June 24, 1987, D.C. Law 7-9, § 3, 34 DCR 3283; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 5, 2003, D.C. Law 14-307, § 1402(a), 49 DCR 11664; Nov. 13, 2003, D.C. Law 15-39, § 2102(a), 50 DCR 5668; Mar. 2, 2007, D.C. Law 16-191, § 109(e), 53 DCR 6794; Sept. 12, 2008, D.C. Law 17-231, § 41(o), 55 DCR 6758.)

**Prior Codifications.** — 1981 Ed., § 47-3701.

**Effect of amendments.** — D.C. Law 14-307 rewrote pars. (4), (5), and (6).

D.C. Law 15-39, in par. (4)(B), substituted

"\$345,800" for "\$675,000" in subpar. (ii), and substituted "\$1 million" for "\$675,000" in subpar. (iii).

D.C. Law 16-191 rewrote par. (4)(B) and added par. (4)(C). Prior to amendment, par.



(4)(B) read as follows: "(B) For a decedent whose death occurs on or after January 1, 2002: "(i) The maximum amount of credit for state death taxes allowed by section 2011 of the Internal Revenue Code; "(ii) Any scheduled increase in the unified credit provided in section 2010 of the Internal Revenue Code or thereafter shall not apply and the amount of the unified credit shall be \$345,800; and" "(iii) An estate tax return shall not be required to be filed if the decedent's gross estate does not exceed \$1 million."

D.C. Law 17-231 added par. (3A); and rewrote pars. (5) and (12), which had read as follows: "(5) 'Gross estate' means gross estate as defined in the Internal Revenue Code." "(12) 'Taxable estate' means taxable estate as defined in 2051 of the Internal Revenue Code of 1954."

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2 of Inheritance and Estate Tax Temporary Act of 2002 (D.C. Law 14-227, March 25, 2003, law notification 50 DCR 2740).

For temporary (225 day) amendment of section, see § 2 of Inheritance and Estate Tax Clarification Temporary Act of 2004 (D.C. Law 15-119, March 30, 2004, law notification 51 DCR 3806).

Section 2 of D.C. Law 15-315, in par. (4), rewrote subpar. (B), and added subpar. (C) to read as follows:

"(B) For a decedent whose death occurs on or after January 1, 2002:

"(i) The maximum amount of credit for state death taxes allowed by section 2011 of the Internal Revenue Code;

"(ii) Any scheduled increase in the unified credit provided in section 2010 of the Internal Revenue Code or thereafter shall not apply and the amount of the unified credit shall be \$675,000; and

"(iii) An estate tax return shall not be required to be filed if the decedent's gross estate does not exceed \$675,000.

"(C) For a decedent whose death occurs on or after January 1, 2003:

"(i) The maximum amount of credit for state death taxes allowed by section 2011 of the Internal Revenue Code;

"(ii) Any scheduled increase in the unified credit provided in section 2010 of the Internal Revenue Code or thereafter shall not apply and the amount of the unified credit shall be \$345,800; and

"(iii) An estate tax return shall not be required to be filed if the decedent's gross estate does not exceed \$1 million."

Section 4(b) of D.C. Law 15-315 provided that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 16-62 amended par. (4)(B) and added par. (4)(C) to read as follows:

"(B) For a decedent whose death occurs on or after January 1, 2002:

"(i) The maximum amount of credit for state death taxes allowed by section 2011 of the Internal Revenue Code;

"(ii) Any scheduled increase in the unified credit provided in section 2010 of the Internal Revenue Code or thereafter shall not apply and the amount of the unified credit shall be \$130,300; and

"(iii) An estate tax return shall not be required to be filed if the decedent's gross estate does not exceed \$675,000.

"(C) For a decedent whose death occurs on or after January 1, 2003:

"(i) The maximum amount of credit for state death taxes allowed by section 2011 of the Internal Revenue Code;

"(ii) Any scheduled increase in the unified credit provided in section 2010 of the Internal Revenue Code or thereafter shall not apply and the amount of the unified credit shall be \$345,800; and

"(iii) An estate tax return shall not be required to be filed if the decedent's gross estate does not exceed \$1 million."

Section 4(b) of D.C. Law 16-62 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 1402(a) of Fiscal Year 2003 Budget Support Amendment Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) amendment of section, see § 2 of Inheritance and Estate Tax Emergency Act of 2002 (D.C. Act 14-448, July 23, 2002, 49 DCR 7865).

For temporary (90 day) amendment of section, see § 2 of Inheritance and Estate Tax Congressional Review Emergency Act of 2002 (D.C. Act 14-507, October 23, 2002, 49 DCR 10219).

For temporary (90 day) amendment of section, see § 1402(a) of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of section, see § 1402(a) of Fiscal Year 2003 Budget Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

For temporary (90 day) amendment of section, see § 2002(a) of Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) amendment of section, see § 2002(a) of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

For temporary (90 day) amendment of section, see § 2 of Estate and Inheritance Tax Clarification Emergency Act of 2003 (D.C. Act 15-281, December 18, 2003, 51 DCR 187).

For temporary (90 day) amendment of section, see § 2 of Estate and Inheritance Tax Clarification Congressional Review Emergency Act of 2004 (D.C. Act 15-398, March 18, 2004, 51 DCR 3630).

For temporary (90 day) amendment of section, see § 2 of Estate and Inheritance Tax Clarification Emergency Act of 2004 (D.C. Act 15-620, November 30, 2004, 51 DCR 11455).

For temporary (90 day) amendment of section, see § 2 of Estate and Inheritance Tax Clarification Congressional Review Emergency Act of 2005 (D.C. Act 16-32, February 17, 2005, 52 DCR 3016).

For temporary (90 day) amendment of section, see § 2 of Estate and Inheritance Tax Clarification Emergency Act of 2005 (D.C. Act 16-203, November 17, 2005, 52 DCR 10513).

For temporary (90 day) amendment of section, see § 2 of Estate and Inheritance Tax Clarification Congressional Review Emergency Act of 2006 (D.C. Act 16-283, February 27, 2006, 53 DCR 1633).

For temporary (90 day) amendment of section, see § 2 of Estate and Inheritance Tax Clarification Emergency Act of 2006 (D.C. Act 16-510, October 25, 2006, 53 DCR 9082).

For temporary (90 day) amendment of section, see § 25(e) of Finance and Revenue Technical Amendments Second Emergency Amendment Act of 2006 (D.C. Act 16-585, December 28, 2006, 54 DCR 340).

**Legislative history of Law 6-168.** — Law 6-168, the “Inheritance and Estate Tax Revision Act of 1986,” was introduced in Council and assigned Bill No. 6-372, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on September 23, 1986 and October 7, 1986, respectively. Signed by the Mayor on October 27, 1986, it was assigned Act No. 6-217 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 6-209.** — Law 6-209, the “Tax Amnesty Act of 1986,” was introduced in Council and assigned Bill No. 6-398, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 25, 1986 and December 16, 1986 respectively. Signed by the Mayor on January 8, 1987, it was assigned Act No. 6-269 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 7-9.** — Law 7-9, the “D.C. Income and Franchise Tax Confor-

mity and Inheritance and Estate Tax Revision Act of 1986 Amendment Act of 1987,” was introduced in Council and assigned Bill No. 7-129, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 31, 1987 and April 14, 1987, respectively. Signed by the Mayor on May 6, 1987, it was assigned Act No. 7-20 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 14-307.** — For Law 14-307, see notes following § 47-903.

**Legislative history of Law 15-39.** — Law 15-39, the “Fiscal Year 2004 Budget Support Act of 2003”, was introduced in Council and assigned Bill No. 15-218, which was referred to Committee on Whole. The Bill was adopted on first and second readings on May 6, 2003, and June 3, 2003, respectively. Signed by the Mayor on June 20, 2003, it was assigned Act No. 15-106 and transmitted to both Houses of Congress for its review. D.C. Law 15-39 became effective on November 13, 2003.

**Legislative history of Law 15-315.** — Law 15-315, the “Estate and Inheritance Tax Clarification Temporary Act of 2004”, was introduced in Council and assigned Bill No. 15-1109, and was retained by Council. The Bill was adopted on first and second readings on November 9, 2004, and December 7, 2004, respectively. Signed by the Mayor on January 4, 2005, it was assigned Act No. 15-712 and transmitted to both Houses of Congress for its review. D.C. Law 15-315 became effective on April 8, 2005.

**Legislative history of Law 16-191.** — For Law 16-191, see notes following § 47-2425.

**Legislative history of Law 17-231.** — For Law 17-231, see notes following § 47-802.

**Short title.** — Short title of title XXI of Law 15-39: Section 2101 of D.C. Law 15-39 provided that title XXI of the act may be cited as the Inheritance and Estate Tax Parity Act of 2003.

**Effective date.** — Section 601(b) of D.C. Law 6-209 provided that title III and sections 401, 402, 404, 405 and 406 of the act shall take effect on October 1, 1987.

**References in text.** — Section 2011 of the Internal Revenue Code, referred to in par. (4)(B)(i), is classified to 26 U.S.C. § 2011.

Section 2010 of the Internal Revenue Code, referred to in par. (4)(B)(ii), is classified to 26 U.S.C. § 2010.

**Editor’s notes.** — Section 2103 of D.C. Law 15-39 provided: “Section 2102 shall apply as of January 1, 2003.”

Section 109(f) of D.C. Law 16-191 provided: “Subsections (b) and (c) of this section shall apply as of April 1, 2004.”



**§ 47-3702. Tax on transfer of taxable estate of residents; amounts; credit; property of resident defined.**

(a) A tax in the amount of the federal credit is imposed on the transfer of the taxable estate having its taxable situs in the District of every resident dying on or after April 1, 1987, subject, where applicable, to the credit provided for in subsection (b) of this section.

(b) If any real or tangible personal property of a resident is located outside the District and subject to a death tax imposed by another state for which a credit is allowed under § 2011 of the Internal Revenue Code of 1954, the amount of tax due under this section shall be credited with the lesser of:

(1) The amount of the death tax paid the other state and that qualifies for credit against the federal estate tax; or

(2) An amount computed by multiplying the federal credit by a fraction, the numerator of which is the value of that part of the gross estate over which another state or states have jurisdiction to the same extent that the District would exert jurisdiction under this chapter with respect to the residents of the other state or states and the denominator of which is the value of the decedent's gross estate.

(c) For the purposes of this section, taxable situs means in regard to:

(1) Real property — the place where the property is situated;

(2) Tangible personal property — the place where the property is customarily located at the time of the decedent's death; and

(3) Intangible personal property — the domicile of the decedent at the time of the decedent's death, except that intangible personal property used in a trade or business in the District shall have a taxable situs in the District regardless of the domicile of the owner.

(Feb. 24, 1987, D.C. Law 6-168, § 3, 33 DCR 7008; June 24, 1987, D.C. Law 7-9, § 3, 34 DCR 3283; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3702.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2 of Inheritance and Estate Tax Revision Act of 1986 Amendment Temporary Act of 1987(D.C. Law 7-3, May 19, 1997, law notification 34 DCR 3647).

**Legislative history of Law 6-168.** — For legislative history of D.C. Law 6-168, see Historical and Statutory Notes following § 47-3701.

**Legislative history of Law 7-9.** — For legislative history of D.C. Law 7-9, see Historical and Statutory Notes following § 47-3701.

**§ 47-3703. Tax on transfer of taxable estate of nonresidents; property of nonresident defined.**

(a) A tax in an amount computed as provided in this section is imposed on the transfer of every nonresident's taxable estate having its taxable situs in the District.

(b) The tax shall be an amount computed by multiplying the federal credit by a fraction, the numerator of which is the value of that part of the gross

estate over which the District has jurisdiction for estate tax purposes and the denominator of which is the value of the decedent's gross estate.

(c) For the purposes of this section, taxable situs means in regard to:

- (1) Real property — the place where the property is situated;
- (2) Tangible personal property — the place where the property is customarily located at the time of the decedent's death; and
- (3) Intangible personal property — the domicile of the decedent at the time of the decedent's death, except that intangible personal property used in a trade or business in the District shall have a taxable situs in the District regardless of the domicile of the owner.

(Feb. 24, 1987, D.C. Law 6-168, § 4, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3703. legislative history of D.C. Law 6-168, see Historical and Statutory Notes following § 47-3701.

**Legislative history of Law 6-168.** — For 3701.

## § 47-3704. Authority for Mayor to compromise tax.

In all cases in which the Mayor claims that a decedent was domiciled in the District at the time of his or her death and the taxing authorities of a state or states make a similar claim with respect to their state or states, the Mayor may compromise the taxes imposed by this chapter.

(Feb. 24, 1987, D.C. Law 6-168, § 5, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3704. legislative history of D.C. Law 6-168, see Historical and Statutory Notes following § 47-3701.

**Legislative history of Law 6-168.** — For 3701.

## § 47-3705. Filing returns; payment of tax due.

(a)(1) The personal representative of every estate subject to the tax imposed by this chapter shall file with the Mayor, within 10 months after the death of the decedent:

- (A) A return for the tax due under this chapter; and
- (B) A copy of the federal estate tax return, if any.

(2) A return shall not be required to be filed if the gross estate does not exceed \$1 million.

(b) If the personal representative has obtained an extension of time for filing the federal estate tax return, the filing required by subsection (a) of this section shall be similarly extended until 30 days after the end of the time period granted in the extension of time for the federal estate tax return. Upon obtaining an extension of time for filing the federal estate tax return, the personal representative shall provide the Mayor with a copy of the extension of time.

(c) The tax due under this chapter shall be paid by the personal representative to the Mayor no later than the date when the return covering this tax is required to be filed under subsection (a) or (b) of this section.



(d) Whenever the Mayor determines that the tax due under this chapter has been overpaid, the estate shall be entitled to a refund of the amount of the overpayment. An application for the refund shall be made to the Mayor within 3 years from the date of payment.

(Feb. 24, 1987, D.C. Law 6-168, § 6, 33 DCR 7008; Feb. 28, 1987, D.C. Law 6-209, § 402(b), 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(vv), 48 DCR 334; June 5, 2003, D.C. Law 14-307, § 1402(b), 49 DCR 11664; Nov. 13, 2003, D.C. Law 15-39, § 2102(b), 50 DCR 5668.)

**Prior Codifications.** — 1981 Ed., § 47-3705.

**Effect of amendments.** — D.C. Law 13-305, in subsec. (c), deleted the second sentence which read: "If the tax is paid pursuant to subsection (b) of this section, interest shall be added to the tax in accordance with 47-453 through 47-458 for the period between the date when the tax would have been due had no extension been granted and the date of full payment."

D.C. Law 14-307 rewrote subsec. (a).

D.C. Law 15-39, in subsec. (a), substituted "\$1 million" for "\$675,000" in subpar. (2).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 1402(b) of Fiscal Year 2003 Budget Support Amendment Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) amendment of section, see § 1402(b) of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of section, see § 1402(b) of Fiscal Year 2003 Budget Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

For temporary (90 day) amendment of section, see § 2002(b) of Fiscal Year 2004 Budget Support Emergency Act of 2003 (D.C. Act 15-105, June 20, 2003, 50 DCR 5613).

For temporary (90 day) amendment of section, see § 2002(b) of Fiscal Year 2004 Budget Support Congressional Review Emergency Act of 2003 (D.C. Act 15-149, September 22, 2003, 50 DCR 8360).

**Legislative history of Law 6-168.** — For legislative history of D.C. Law 6-168, see Historical and Statutory Notes following § 47-3701.

**Legislative history of Law 6-209.** — For legislative history of D.C. Law 6-209, see Historical and Statutory Notes following § 47-3701.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Legislative history of Law 14-307.** — For Law 14-307, see notes following § 47-903.

**Legislative history of Law 15-39.** — For Law 15-39, see notes following § 47-3701.

**Effective date.** — Section 601(b) of D.C. Law 6-209 provided that title III and sections 401, 402, 404, 405 and 406 of the act shall take effect on October 1, 1987.

**Editor's notes.** — Section 410(e) of D.C. Law 13-305 provided: "Section 406(b), (d), (f), (l), (n), (o), (r), (v), (x) through (aa), (cc), (ff), (gg), (ll), (pp), (vv), (ww), (aaa), (ccc), (eee), and (ggg) shall apply as of January 1, 2001."

Section 2103 of D.C. Law 15-39 provided: "Section 2102 shall apply as of January 1, 2003."

## § 47-3706. Jeopardy assessments. [Repealed].

Repealed.

(Feb. 24, 1987, D.C. Law 6-168, § 7, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(ww)(2), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-3706.

**Legislative history of Law 6-168.** — For legislative history of D.C. Law 6-168, see Historical and Statutory Notes following § 47-3701.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor's notes.** — Section 410(e) of D.C. Law 13-305 provided: "Section 406(b), (d), (f), (l), (n), (o), (r), (v), (x) through (aa), (cc), (ff), (gg),

(ll), (pp), (vv), (ww), (aaa), (ccc), (eee), and (ggg) shall apply as of January 1, 2001.”

## § 47-3707. Authority for Mayor to file.

If a person fails to make and file a return at the time prescribed by law or by regulations, or makes, willfully or otherwise, a false or fraudulent return, the Mayor shall make the return from his own knowledge and from information obtained through testimony or otherwise. The return made and subscribed by the Mayor shall be prima facie good and sufficient for all legal purposes.

(Feb. 24, 1987, D.C. Law 6-168, § 8, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(xx), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-3707.

**Effect of amendments.** — D.C. Law 13-305 rewrote the section which had read:

“If any person fails to file a return at the time prescribed by law, or files a false or fraudulent return, the Mayor shall make a return from his or her own knowledge and from other information as he or she can obtain. Any return made

by the Mayor pursuant to this section shall constitute prima facie evidence of the amount due.”

**Legislative history of Law 6-168.** — For legislative history of D.C. Law 6-168, see Historical and Statutory Notes following § 47-3701.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

## § 47-3708. Amended returns.

(a) If the personal representative files an amended federal estate tax return, he or she shall, within 30 days after filing the amended federal estate tax return, file with the Mayor an amended return covering the tax imposed by this chapter, accompanying the amended return with a copy of the amended federal estate tax return. If the personal representative is required to pay an additional tax under this chapter pursuant to the amended return, he or she shall pay the tax, together with interest in accordance with § 47-4201.01 at the time of filing the amended return.

(b) If, upon final determination of the federal estate tax due, a deficiency is assessed, the personal representative shall within 30 days after this determination give written notice of the deficiency to the Mayor. If any additional tax is due under this chapter by reason of this determination, the personal representative shall pay the additional tax, together with interest in accordance with § 47-4201.01 at the time of filing the notice.

(Feb. 24, 1987, D.C. Law 6-168, § 9, 33 DCR 7008; Feb. 28, 1987, D.C. Law 6-209, § 402(c), 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(yy), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-3708.

**Effect of amendments.** — D.C. Law 13-305, in subsec. (a), substituted “§ 47-4201.01” for “§§ 47-453 through 47-458”; and, in subsec. (b), substituted “§ 47-4201.01 at the time of filing the notice” for “§§ 47-453 through 47-458” at the time he or she files the notice.”

**Legislative history of Law 6-168.** — For legislative history of D.C. Law 6-168, see Historical and Statutory Notes following § 47-3701.

**Legislative history of Law 6-209.** — For legislative history of D.C. Law 6-209, see Historical and Statutory Notes following § 47-3701.



**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Effective date.** — Section 601(b) of D.C. Law 6-209 provided that title III and sections 401, 402, 404, 405 and 406 of the act shall take effect on October 1, 1987.

**Editor's notes.** — Section 410(d) of D.C.

Law 13-305 provided: "Section 406(a), (c), (j), (m), (p), (q), (s), (w), (bb), (dd), (ee), (hh) through (kk), (mm) through (oo), (qq) through (uu), (yy), (zz), (bbb), (ddd), and (fff) shall apply for all tax years or taxable periods beginning after December 31, 2000."

## § 47-3709. Testimony; production of books and records. [Repealed].

Repealed.

(Feb. 24, 1987, D.C. Law 6-168, § 10, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(zz)(2), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-3709.

**Legislative history of Law 6-168.** — For legislative history of D.C. Law 6-168, see Historical and Statutory Notes following § 47-3701.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor's notes.** — Section 410(d) of D.C. Law 13-305 provided: "Section 406(a), (c), (j), (m), (p), (q), (s), (w), (bb), (dd), (ee), (hh) through (kk), (mm) through (oo), (qq) through (uu), (yy), (zz), (bbb), (ddd), and (fff) shall apply for all tax years or taxable periods beginning after December 31, 2000."

## § 47-3710. Certification of payment by Mayor.

When the Mayor is satisfied that the tax liability imposed by this chapter has been fully discharged or provided for, the Mayor may certify that fact.

(Feb. 24, 1987, D.C. Law 6-168, § 11, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3710.

**Legislative history of Law 6-168.** — For

legislative history of D.C. Law 6-168, see Historical and Statutory Notes following § 47-3701.

## § 47-3711. Lien for taxes. [Repealed].

Repealed.

(Feb. 24, 1987, D.C. Law 6-168, § 12, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(aaa)(2), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-3711.

**Legislative history of Law 6-168.** — For legislative history of D.C. Law 6-168, see Historical and Statutory Notes following § 47-3701.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor's notes.** — Section 410(e) of D.C. Law 13-305 provided: "Section 406(b), (d), (f), (l), (n), (o), (r), (v), (x) through (aa), (cc), (ff), (gg), (ll), (pp), (vv), (ww), (aaa), (ccc), (eee), and (ggg) shall apply as of January 1, 2001."

**§ 47-3712. Liability of personal representative.**

The tax, interest, and penalties imposed by this chapter shall be paid by the personal representative. If any personal representative distributes either in whole or in part any of the property of an estate to the beneficiaries or creditors without having paid or secured the tax, interest, or penalties due pursuant to this chapter, he or she shall be personally liable for the tax, interest, and penalties so due, or so much of the tax, interest, and penalties as may remain due and unpaid, to the full extent of any property belonging to the person or estate that may have or will come into his or her custody or control.

(Feb. 24, 1987, D.C. Law 6-168, § 13, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3712.

legislative history of D.C. Law 6-168, see Historical and Statutory Notes following § 47-3701.

**Legislative history of Law 6-168.** — For

**§ 47-3713. Duty of personal representative.**

The personal representative of every decedent subject to the tax imposed by this chapter shall, before distribution of the estate, pay to the Mayor any taxes, penalties, and interest due under this chapter. The taxes, penalties, and interest shall be paid by the personal representative to the extent of assets subject to his or her control. Each payment shall be applied, first, to any interest due on the tax, second, to any penalty imposed by this chapter, and then the balance, if any, to the tax.

(Feb. 24, 1987, D.C. Law 6-168, § 14, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3713.

legislative history of D.C. Law 6-168, see Historical and Statutory Notes following § 47-3701.

**Legislative history of Law 6-168.** — For

**§ 47-3714. Apportionment required.**

(a) Except as may be otherwise provided in the decedent's will, whenever it appears upon any settlement of accounts or in any other appropriate action or proceeding that a person acting in a fiduciary capacity has paid an estate tax levied or assessed under the provisions of the estate tax law of the District or the United States upon or with respect to any property required to be included in the gross estate of a decedent under the provisions of either law, the amount of the tax so paid shall be prorated among the persons interested in the estate to whom the property is or may be transferred or to whom any benefit accrues. Apportionment shall be made in the proportion that the value of the property, interest, or benefit of each person bears to the total value of the property, interests, and benefits received by all persons interested in the estate, except that in making proration each person shall have the benefit of any exemptions, deductions, and exclusions allowed by law in respect of the persons or the property passing to him or her.



(b) Notwithstanding subsection (a) of this section, in cases in which a trust is created or other provisions made in which any person is given an interest in income, an estate for years, an estate for life, or other temporary interest or estate in any property or fund, the tax on the temporary interest or estate shall be charged against and paid out of the corpus of that property or fund without apportionment between temporary interests or estates and remainders.

(Feb. 24, 1987, D.C. Law 6-168, § 15, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3714.

**Legislative history of Law 6-168.** — For

legislative history of D.C. Law 6-168, see Historical and Statutory Notes following § 47-3701.

## CASE NOTES

### ANALYSIS

In general.  
Questions of law.

#### In general.

Apportionment statute applied to allocate estate taxes among estate beneficiaries who settled all claims in suit against one beneficiary seeking return of assets to decedent's estate by providing for transfer of monies directly to them, but who failed to specify or otherwise agree on responsibility for payment of estate taxes on disputed assets; having claimed that assets were part of estate, beneficiaries were precluded from claiming that money paid to them was not part of estate. *Estate of Brabson v. Randall*, 757 A.2d 761, 2000 D.C. App. LEXIS 193 (2000).

Wife's elective share of her husband's estate

was equivalent to intestate share of her husband's estate and was therefore subject to apportionment statute, and thus, by virtue of marital deduction recognized in apportionment statute, wife's share was not subject to federal or district estate taxes. D.C. Code 1981, §§ 19-113, 19-303, 47-3714. *Rockler v. Severeid*, 691 A.2d 97, 1997 D.C. App. LEXIS 40 (1997).

#### Questions of law.

Whether apportionment statute applied to allocate estate taxes among heirs who settled all claims in prior suit to return assets to decedent's estate by providing for transfer of assets directly to them, but who failed to specify responsibility for payment of estate taxes, presented question of law subject to de novo review. *Estate of Brabson v. Randall*, 757 A.2d 761, 2000 D.C. App. LEXIS 193 (2000).

## § 47-3715. Monthly report of Register of Wills.

The Register of Wills shall report to the Mayor on every order appointing a personal representative in the District for the estate of any decedent. The report shall be in a form prepared by the Register of Wills, shall be filed with the Mayor at least once every month, and shall contain the name of the decedent, the date of his or her death, the name and address of the personal representative, and the value of the estate, as shown by the petition for probate.

(Feb. 24, 1987, D.C. Law 6-168, § 16, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3715.

**Legislative history of Law 6-168.** — For

legislative history of D.C. Law 6-168, see Historical and Statutory Notes following § 47-3701.

## § 47-3716. Final account.

No final account in any probate proceeding of a personal representative who

is required to file a federal estate tax return shall be approved by the court unless the court finds that the tax imposed on the property by this chapter, including applicable interest, has been paid in full or that no tax is due.

(Feb. 24, 1987, D.C. Law 6-168, § 17, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3716. legislative history of D.C. Law 6-168, see Historical and Statutory Notes following § 47-3701.

**Legislative history of Law 6-168.** — For

## § 47-3717. Authority of Mayor to determine tax; deficiencies in tax.

(a) The Mayor shall have the authority to determine, redetermine, assess, or reassess any tax due under this chapter. Assessments of any deficiencies in the tax due under this chapter, or any interest and penalties thereon, shall be governed by § 47-4312.

(b) Any assessment of tax, penalties, and interest that has become final pursuant to § 47-4312 shall be due and payable within 10 days after service of a final assessment by the Mayor or service of a final order by the Office of Administrative Hearings, as applicable.

(c) Except as provided in § 47-4312, any person aggrieved by an assessment of a deficiency in tax under the provisions of this section may appeal to the Superior Court of the District of Columbia in the same manner and to the same extent as set forth in §§ 47-3303, 47-3304, and 47-3308.

(Feb. 24, 1987, D.C. Law 6-168, § 18, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Dec. 7, 2004, D.C. Law 15-217, § 4(h), 51 DCR 9126.)

**Prior Codifications.** — 1981 Ed., § 47-3717.

**Effect of amendments.** — D.C. Law 15-217 rewrote subsecs. (a) and (b); and, in subsec. (c), substituted "Except as provided in § 47-4312, any person aggrieved by an assessment of a deficiency in tax" for "Any person aggrieved by an assessment of a deficiency in tax finally determined by the Mayor".

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(h) of Office of Administrative Hearings Establishment Emergency Amendment Act of 2004 (D.C. Act 15-513, August 2, 2004, 51 DCR 8976).

For temporary (90 day) amendment of section, see § 3(h) of Office of Administrative Hearings Establishment Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-553, October 26, 2004, 51 DCR 10359).

**Legislative history of Law 6-168.** — For legislative history of D.C. Law 6-168, see Historical and Statutory Notes following § 47-3701.

**Legislative history of Law 15-217.** — For Law 15-217, see notes following § 47-1528.

## § 47-3718. Penalties. [Repealed].

Repealed.

(Feb. 24, 1987, D.C. Law 6-168, § 19, 33 DCR 7008; Feb. 28, 1987, D.C. Law 6-209, § 402(d), 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(bbb)(2), 48 DCR 334.)



**Prior Codifications.** — 1981 Ed., § 47-3718.

**Legislative history of Law 6-168.** — For legislative history of D.C. Law 6-168, see Historical and Statutory Notes following § 47-3701.

**Legislative history of Law 6-209.** — For legislative history of D.C. Law 6-209, see Historical and Statutory Notes following § 47-3701.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Effective date.** — Section 601(b) of D.C. Law 6-209 provided that title III and sections 401, 402, 404, 405 and 406 of the act shall take effect on October 1, 1987.

**Editor's notes.** — Section 410(d) of D.C. Law 13-305 provided: "Section 406(a), (c), (j), (m), (p), (q), (s), (w), (bb), (dd), (ee), (hh) through (kk), (mm) through (oo), (qq) through (uu), (yy), (zz), (bbb), (ddd), and (fff) shall apply for all tax years or taxable periods beginning after December 31, 2000."

## § 47-3719. Secrecy of returns.

(a) Except as may be necessary for the enforcement of this chapter, it shall be unlawful for any officer or employee, or any former officer or employee, of the District to divulge or make known in any manner any particulars set forth or disclosed in any return required to be filed under this chapter, and neither the original nor a copy of any return desired for use in litigation in court shall be furnished where neither the District nor the United States is interested in the result of the litigation, whether or not the request is contained in an order of the court.

(b) Nothing contained in this section shall be construed to prevent the furnishing to a taxpayer of a copy of his or her return upon the payment of a fee as the Mayor may prescribe by rule.

(c) The provisions of this section shall also be applicable to any federal, state, or local inheritance or estate tax returns or copies and to any other federal, state, or local inheritance or estate tax information either submitted by the taxpayer or otherwise obtained.

(d) Notwithstanding the provisions of subsection (a) of this section, any tax returns or other tax information required by this chapter may be disclosed to any official of the District having a right to the information in his or her official capacity or to a contractor to the extent necessary for the processing, storage, transmission, or reproduction of the tax information or for the programming, maintenance, repair, testing, and procurement of equipment for purposes of tax administration. The provisions of subsections (a) and (f) of this section shall be applicable to all contractors and former contractors and to their officers and employees.

(e) The Mayor may permit the proper officer of the United States or of any state imposing a similar tax to inspect the tax returns filed with the Mayor pursuant to this chapter or may furnish the officer or representative a copy of the tax returns if the United States or the state grants substantially similar privileges to the Mayor.

(f) Any violation of the provisions of this section shall be a misdemeanor and, upon conviction, shall be punishable by a fine not to exceed \$1,000, imprisonment for not more than 1 year, or both. All prosecutions under this section shall be brought in the Superior Court of the District of Columbia on information by the Attorney General for the District of Columbia or his or her assistants in the name of the District of Columbia.

(Feb. 24, 1987, D.C. Law 6-168, § 20, 33 DCR 7008; enacted, Apr. 9, 1997, D.C.

Law 11-254, § 2, 44 DCR 1575; Apr. 13, 2005, D.C. Law 15-354, § 73(m), 52 DCR 2638; Mar. 2, 2007, D.C. Law 16-191, § 48(h)(4), 53 DCR 6794.)

**Prior Codifications.** — 1981 Ed., § 47-3719.

**Effect of amendments.** — D.C. Law 15-354 substituted “Attorney General for the District of Columbia” for “Corporation Counsel”.

D.C. Law 16-191, in subsec. (f), validated a previously made technical correction.

**Legislative history of Law 6-168.** — For

legislative history of D.C. Law 6-168, see Historical and Statutory Notes following § 47-3701.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

**Legislative history of Law 16-191.** — For Law 16-191, see notes following § 47-2845.

## § 47-3720. Rules.

The Mayor shall issue rules necessary to carry out the provisions of this chapter and to provide for the granting of extensions of time within which to perform the duties imposed by this chapter, in accordance with subchapter I of Chapter 5 of Title 2.

(Feb. 24, 1987, D.C. Law 6-168, § 21, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3720.

**Legislative history of Law 6-168.** — For legislative history of D.C. Law 6-168, see Historical and Statutory Notes following § 47-3701.

**Delegation of Authority.** — Delegation of authority pursuant to Law 6-168, see Mayor’s Order 87-90, April 20, 1987.

## § 47-3721. Report by Mayor concerning amendment, repeal, or replacement of Internal Revenue Code of 1954.

Within 90 days after any amendment, repeal, or replacement of the Internal Revenue Code of 1954, the Mayor shall report to the Council concerning the amendment, repeal, or replacement. The reports shall include, but not be limited to, an analysis of the impact of conformity to the amendment, repeal, or replacement on District taxpayers, and on District of Columbia government revenues over the next 5-year period, and a recommendation as to whether any change in District law should be made as a result of the amendment, repeal, or replacement.

(Feb. 24, 1987, D.C. Law 6-168, § 22, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3721.

**Legislative history of Law 6-168.** — For

legislative history of D.C. Law 6-168, see Historical and Statutory Notes following § 47-3701.

## § 47-3722. Effect of repealers.

(a) The repeal by this act of any provision of law shall not affect any act done or any right accrued or accruing under the provision of law before April 1, 1987, or any suit or proceeding had or commenced before April 1, 1987, but all rights



and liabilities under prior law shall continue and may be enforced in the same manner and to the same extent as if the repeal had not been made.

(b) All offenses committed, and all penalties incurred prior to April 1, 1987, under any provision of law repealed, may be prosecuted and punished in the same manner and with the same effect as if this chapter had not been enacted.

(Feb. 24, 1987, D.C. Law 6-168, § 23, 33 DCR 7008; Feb. 28, 1987, D.C. Law 6-209, §§ 402(e), 403(1), 34 DCR 689; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3722.

**Legislative history of Law 6-168.** — For legislative history of D.C. Law 6-168, see Historical and Statutory Notes following § 47-3701.

**Legislative history of Law 6-209.** — For legislative history of D.C. Law 6-209, see Historical and Statutory Notes following § 47-3701.

**Effective date.** — Section 601(b) of D.C. Law 6-209 provided that title III and sections 401, 402, 404, 405 and 406 of the act shall take effect on October 1, 1987.

**References in text.** — “This Act,” referred to in subsection (a), is D.C. Law 6-168, codified as § 47-3701 et seq.

## § 47-3723. Applicability.

The tax imposed by this chapter shall apply to the estates of decedents dying after March 31, 1987.

(Feb. 24, 1987, D.C. Law 6-168, § 25, 33 DCR 7008; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3723.

**Legislative history of Law 6-168.** — For

legislative history of D.C. Law 6-168, see Historical and Statutory Notes following § 47-3701.

CHAPTER 38. SUPERMARKET TAX INCENTIVES.

Sec.

47-3801. Definitions.

47-3802. Tax exemption.

47-3803. [Repealed].

Sec.

47-3804. Rules.

47-3805. Supermarket real property tax rebate.

§ 47-3801. Definitions.

For the purposes of this chapter, the term:

(1)(A) "Development" means the new construction or substantial rehabilitation of a qualified supermarket for which building permits are issued on or after [October 4, 2000]. For the purposes of this paragraph, "substantial rehabilitation" means a capital investment within any 24-month period in a qualified supermarket that exceeds 50% of the adjusted basis of the building as calculated for District income tax purposes.

(B) "Development" also means the new construction or substantial rehabilitation of a qualified restaurant or retail store for which building permits are issued on or after October 4, 2000. For the purposes of this sub-subparagraph, "substantial rehabilitation" means a capital investment within any 24-month period in a qualified restaurant or retail store that exceeds 50% of the adjusted basis of the building as calculated for District income tax purposes.

(1A) "Priority development area" means:

(A) The Downtown East Area which shall consist of land within the boundary descriptions beginning at the intersection of Pennsylvania Avenue, N.W., and New Jersey Avenue, N.W., to Massachusetts Avenue, N.W.; west on Massachusetts Avenue, N.W., to 15th Street, N.W.; south on 15th Street, N.W., to Pennsylvania Avenue, N.W.; and east on Pennsylvania Avenue, N.W., to New Jersey Avenue N.W.;

(B) The Capital City Business and Industrial Area which shall consist of land within the boundary descriptions beginning at the intersection of New York Avenue, N.E., and 9th Street, N.E., to Montana Avenue, N.E.; north on Montana Avenue, N.E., to W Street, N.E.; west on W Street, N.E., to 13th Street, N.E.; northwest on 13th Street, N.E., to Brentwood Road, N.E.; southwest on Brentwood Road, N.E., to 9th Street, N.E.; and south on 9th Street, N.E., to New York Avenue, N.E.;

(C) The Capital City Market Area which shall consist of land within the boundary descriptions beginning at the intersection of Florida Avenue, N.E., and North Capitol Street; southeast on Florida Avenue, N.E., to 12th Street, N.E.; south on 12th Street, N.E., to H Street, N.E., west on H street, N.E., to 9th Street, N.E., and north on 9th Street, N.E., to Florida Avenue, N.E.;

(D) The Georgia Avenue Area which shall consist of any square located on or abutting Georgia Avenue, N.W., beginning at the intersection of Florida Avenue, N. W., and north on Georgia Avenue, N.W., to Eastern Avenue, N.W.;

(E) All land within the District that is located east of the Anacostia River or east of the Potomac River that is not within the Anacostia Waterfront;

(F) Any District-designated Foreign Trade Zone or Free Trade Zone pursuant to 19 U.S.C. § 81a et seq.;



(G) Any federally-approved enterprise zone or empowerment zone;

(H) Any federally-approved enterprise community, including Target Area 1: New York Avenue/Northwest; Target Area 2: Marshall Heights; and Target Area 3: Buzzard Point/Anacostia/Congress Heights;

(I) Any area designated as Development Zone Areas pursuant to [Chapter 15 of Title 6], including Alabama Avenue, D.C. Village, and Anacostia;

(J) Any housing opportunity area, development opportunity area, or new or upgraded commercial center designated on the District of Columbia Generalized Land Use Policies Map that is part of the Comprehensive Plan;

(K) The Transit Impact Area which shall consist of any area located within 1500 feet of a Metrorail station in any of the areas set forth in this paragraph, or within 1500 feet of a Metrorail station at a designated Metrorail Station Development Opportunity Area, as defined in the District Elements of the Comprehensive Plan of the District of Columbia;

(L) The Minnesota Avenue area which shall consist of land within the boundary descriptions beginning from East Capitol Street, N.E., to Nannie Helen Burroughs Avenue, N.E.; the Dix Street area which shall consist of land within the boundary descriptions beginning from 58th Street, N.E., to Eastern Avenue, N.E.; the Nannie Helen Burroughs area which shall consist of land within the boundary descriptions beginning from Eastern Avenue, N.E., to 49th Street, N.E.; the Pennsylvania Avenue area which shall consist of land within the boundary descriptions beginning from Branch Avenue, S.E., to Carpenter Street, S.E.; the Benning Road area which shall consist of land within the boundary descriptions beginning from East Capitol Street, S.E., to 44th Street, N.E., from Hanna Place, S.E., to Hillside Road, S.E., and from 39th Street, S.E., to 36th Street, S.E.; and the Division Avenue area from Eads Street, N.E., to Hayes Street, N.E.; and

(M) Any property abandoned or underutilized because of perceived or actual contamination by hazardous substances or any property in which the expansion or redevelopment of the property is complicated by perceived or actual contamination by hazardous substances.

(1B) “Qualified restaurant or retail store” means a restaurant or retail store located in a eligible area.

(1C) “Building materials” means all materials necessary for the construction and build-out of real property, including furniture, fixtures, and other equipment installed in the property.

(1D) “Eligible area” means:

(A) A historically underutilized business zone, as defined by section 3(p)(1) of the Small Business Act, approved July 18, 1958 (72 Stat. 384; 15 U.S.C. § 632(p)(1)); or

(B) Census tracts 18.01, 33.01, 95.05, 95.07, or 95.08.

(2) “Qualified supermarket” means a supermarket located in a eligible area.

(3)(A) “Supermarket” means a self-service retail establishment, independently owned or part of a corporation operating a chain of retail establishments under the same trade name, that:

(i) Is licensed as a grocery store under § 47-2827;

(ii) Offers for sale a full line of meat, seafood, fruits, vegetables, dairy products, dry groceries, household products, and sundries; and

(iii) Occupies the address under a certificate of occupancy with the use declared as a grocery store.

(B) The term “supermarket” shall include related service departments, such as a kitchen, bakery, pharmacy, or flower shop, of a retail establishment that meets the criteria set forth in subparagraph (A) of this paragraph.

(Sept. 29, 1988, D.C. Law 7-173, § 2, 35 DCR 5758; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; October 4, 2000, D.C. Law 13-166, 2(a), 47 DCR 5821; Mar. 26, 2008, D.C. Law 17-138, § 703(a)(1), 55 DCR 1689; Apr. 8, 2011, D.C. Law 18-353, § 205(a), 58 DCR 746.))

**Cross references.** — License law, supermarket developments, exemption conditions, see § 47-2827.

Real property exempt from taxation, enumerated, see § 47-1002.

**Prior Codifications.** — 1981 Ed., § 47-3801.

**Effect of amendments.** — D.C. Law 13-166 rewrote this section, which previously read:

“For the purposes of this chapter, the term:

“(1) ‘Fair market rent’ means an amount as determined by the Mayor with reference to the average rent charged to tenants for occupancy of comparable space in other buildings in the underserved area.

“(2)(A) ‘Supermarket’ means a self-service retail establishment, independently owned or part of a corporation operating a chain of supermarkets under the same name, that:

“(i) Is licensed as a grocery store pursuant to § 47-2827;

“(ii) Offers for sale a full line of meat, seafood, fruits, vegetables, dairy products, and dry groceries, household products, and sundries; and

“(iii) Occupies at least 6,000 square feet of space.

“(B) The term ‘supermarket’ shall include related service departments, such as kitchens, bakeries, pharmacies, or flower shops of a retail establishment that meet the criteria set by subparagraph (A) of this paragraph.

“(3) ‘Supermarket development’ means a new supermarket for which construction begins on or after September 29, 1988, or an expansion or modernization of an existing supermarket if the expansion or modernization begins on or after September 29, 1988.

“(4) ‘Underserved area’ means an area of no more than one square mile within the District having a ratio of less than 2 supermarkets per 10,000 residents or having less than 1 supermarket.”

D.C. Law 17-138 designated the existing text of par. (1) as subpar. (A); added pars. (1)(B), (1A), (1B); and, in par. (2), deleted “as defined in § 2-1219.20” following “area”.

D.C. Law 18-353, in pars. (1B) and (2), substituted “eligible area” for “priority development area”; and added pars. (1C) and (1D).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2 of Supermarket Tax Incentives Clarification Emergency Act of 2008 (D.C. Act 17-268, January 23, 2008, 55 DCR 1499).

**Legislative history of Law 7-173.** — Law 7-173, the “Supermarket Tax Incentive Amendment Act of 1988,” was introduced in Council and assigned Bill No. 7-124, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 28, 1988 and July 12, 1988, respectively. Signed by the Mayor on July 15, 1988, it was assigned Act No. 7-229 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 13-166.** — Law 13-166, the “Supermarket Tax Exemption Act of 2000,” was introduced in Council and assigned Bill No. 13-88, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 3, 2000, and June 6, 2000, respectively. Signed by the Mayor on June 26, 2000, it was assigned Act No. 13-365 and transmitted to both Houses of Congress for its review. D.C. Law 13-166 became effective on October 4, 2000.

**Legislative history of Law 17-138.** — Law 17-138, the “National Capital Revitalization Corporation and Anacostia Waterfront Corporation Reorganization Act of 2008,” was introduced in Council and assigned Bill No. 17-340 which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on December 11, 2007, and January 8, 2008, respectively. Signed by the Mayor on February 5, 2008, it was assigned Act No. 17-289 and transmitted to both Houses of Congress for its review. D.C. Law 17-138 became effective on March 26, 2008.

**Legislative history of Law 18-353.** — Law 18-353, the “Food, Environmental, and Eco-



conomic Development in the District of Columbia Act of 2010", was introduced in Council and assigned Bill No. 18-967, which was referred to the Committee on Economic Development and the Committee on Government Operations and the Environment. The Bill was adopted on first

and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on January 19, 2011, it was assigned Act No. 18-703 and transmitted to both Houses of Congress for its review. D.C. Law 18-353 became effective on April 8, 2011.

## § 47-3802. Tax exemption.

(a) The development of a qualified supermarket, qualified restaurant, or retail store shall be eligible for:

- (1) A 10-year real property tax exemption under § 47-1002(23);
- (2) A 10-year exemption from the license fee under § 47-2827(b);
- (3) A 10-year personal property tax exemption as provided under § 47-1508(a)(9); and

(4) A sales and use tax exemption on the purchase of all building materials related to the development of a qualified supermarket, qualified restaurant, or retail store as provided under §§ 47-2005(28) and 47-2206.

(b) Notwithstanding the provisions of subsection (a) of this section, a qualified supermarket, qualified restaurant, or retail store shall not be eligible for an exemption beginning on or after October 1, 2010 until the fiscal effect of any such new exemptions is included in an approved budget and financial plan.

(c)(1) Effective for applications filed on or after January 1, 2011, to be eligible for any exemption provided under subsection (a) of this section, an applicant shall file with the Mayor, in such manner and form as the Mayor may prescribe, an application requesting certification of eligibility for the exemption.

(2) The Mayor shall, as nearly as practicable, complete review of requests for certification within 45 days after receipt.

(3) The Mayor shall certify to the Office of Tax and Revenue each taxpayer and property eligible for an exemption. The certification shall identify:

- (A) The tax to which the certification applies;
- (B) The specific taxpayer (including taxpayer identification number) and property (by square and lot or parcel or reservation number) eligible;
- (C) The type or portion of the property that is eligible;
- (D) The effective date of eligibility;
- (E) The date on which eligibility is to terminate; and
- (F) Such other information as the Office of Tax and Revenue shall require to administer the exemption.

(4) The Office of Tax and Revenue shall, as nearly as practicable, review and process certifications by the Mayor for real property tax exemptions under subsection (a)(1) of this section within 10 days after receipt.

(5) The Mayor shall notify the Office of Tax and Revenue if any taxpayer or property certified as eligible under paragraph (3) of this subsection becomes ineligible for an exemption under subsection (a) of this section. The notification shall identify:

- (A) The type of tax to which the notice applies;
- (B) The taxpayer (including taxpayer identification number) and property (by square and lot or parcel or reservation number);

- (C) The type or portion of the property ineligible;
- (D) The date on which the taxpayer or property became ineligible; and
- (E) Such other information as the Office of Tax and Revenue shall

require to administer the termination of the exemption.

(6) This subsection applies to the application requirements otherwise applicable to requests for exemption from the taxes listed in subsection (a) of this section, but shall not affect any other provision governing administration of the taxes.

(Sept. 29, 1988, D.C. Law 7-173, § 3, 35 DCR 5758; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; October 4, 2000, D.C. Law 13-166, 2(b), 47 DCR 5821; Mar. 26, 2008, D.C. Law 17-138, § 703(a)(2), 55 DCR 1689; Sept. 24, 2010, D.C. Law 18-223, § 7006, 57 DCR 6242; Apr. 8, 2011, D.C. Law 18-353, § 205(b), 58 DCR 746.)

**Cross references.** — Real property exempt from taxation, enumerated, see § 47-1002.

**Prior Codifications.** — 1981 Ed., § 47-3802.

**Effect of amendments.** — D.C. Law 13-166 rewrote this section, which previously read:

“The Mayor shall, within 180 days of September 29, 1988, submit to the Council for its approval, by resolution, a listing of all underserved areas ranked in order ranging from the most underserved to the least underserved. The Mayor may, from time to time, submit to the Council for its approval, by resolution, a listing of additional underserved areas ranked in order ranging from the most underserved to the least underserved.”

D.C. Law 17-138 inserted “, qualified restaurant, or retail store” following “qualified supermarket” in two places.

D.C. Law 18-223 designated the existing text as subsec. (a); and added subsec. (b).

D.C. Law 18-353 added subsec. (c).

**Temporary Amendment of Section.** — Sections 2 and 3 of D.C. Law 18-261, in subsec. (b), substituted “a qualified restaurant or retail store” for “a qualified supermarket, qualified restaurant, or retail store”.

Section 5(b) of D.C. Law 18-261 provided that the act shall expire after 225 days of its having taken effect.

Section 12 of D.C. Law 19-53, in subsec. (b), substituted “a qualified restaurant or retail store” for “a qualified supermarket, qualified restaurant, or retail store”.

Section 15(b) of D.C. Law 19-53 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see §§ 2 and 3 of Supermarket Tax Exemption Clarification Emergency Amendment Act of 2010 (D.C. Act 18-517, August 3, 2010, 57 DCR 7981).

For temporary (90 day) amendment of section, see § 7006 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

For temporary (90 day) amendment of section, see § 2 of Supermarket Tax Exemption Clarification Congressional Review Emergency Act of 2010 (D.C. Act 18-572, October 20, 2010, 57 DCR 10088).

For temporary (90 day) amendment of section, see § 12 of Revised Fiscal Year 2012 Budget Support Technical Clarification Emergency Amendment Act of 2011 (D.C. Act 19-157, October 4, 2011, 58 DCR 8688).

**Legislative history of Law 7-173.** — For legislative history of D.C. Law 7-173, see Historical and Statutory Notes following § 47-3801.

**Legislative history of Law 13-166.** — For Law 13-166, see notes following § 47-3801.

**Legislative history of Law 17-138.** — For Law 17-138, see notes following § 47-3801.

**Legislative history of Law 18-223.** — For Law 18-223, see notes following § 47-355.05.

**Legislative history of Law 18-353.** — For history of Law 18-353, see notes under § 47-3801.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 7-173, the “Supermarket Tax Incentive Amendment Act of 1988”, see Mayor’s Order 89-84, April 24, 1989.

## § 47-3803. Tax and license fee incentives. [Repealed].

Repealed.

(Sept. 29, 1988, D.C. Law 7-173, § 4, 35 DCR 5758; enacted, Apr. 9, 1997, D.C.



Law 11-254, § 2, 44 DCR 1575; October 4, 2000, D.C. Law 13-166, 2(c), 47 DCR 5821.)

**Cross references.** — License law, supermarket developments, exemption conditions, see § 47-2827.

**Prior Codifications.** — 1981 Ed., § 47-3803.

**Legislative history of Law 7-173.** — For legislative history of D.C. Law 7-173, see His-

torical and Statutory Notes following § 47-3801.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 7-173, the "Supermarket Tax Incentive Amendment Act of 1988", see Mayor's Order 89-84, April 24, 1989.

## § 47-3804. Rules.

The Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue rules to implement the provisions of this chapter.

(Sept. 29, 1988, D.C. Law 7-173, § 7, 35 DCR 5758; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3804.

**Legislative history of Law 7-173.** — For legislative history of D.C. Law 7-173, see Historical and Statutory Notes following § 47-3801.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 7-173, the "Supermarket Tax Incentive Amendment Act of 1988", see Mayor's Order 89-84, April 24, 1989.

## § 47-3805. Supermarket real property tax rebate.

(a) For the purposes of this section, the term "qualified supermarket" means a qualified supermarket, as defined in § 47-3801(2), for which all of the requirements for the real property tax exemption provided by § 47-1002(23), other than § 47-1002(23)(B)(iii), are satisfied.

(b) Beginning October 1, 2007, if a qualified supermarket leases real property (or a portion thereof) that is subject to tax under Chapter 8 of this title, the qualified supermarket shall receive a rebate of the tax that represents the qualified supermarket's pro rata share of the tax levied for the tax year on the real property (or portion thereof) that the qualified supermarket leases if:

(1) The qualified supermarket is liable under the lease for its pro rata share of the tax;

(2) An application for the rebate of the tax is made on or before December 31 of the succeeding tax year; and

(3) The lessor paid the tax.

(c) The rebate shall be the amount of the pro rata share of the tax paid by the qualified supermarket as required by the lease.

(d) The application shall include:

(1) A copy of the lease; and

(2) Documentation that the tax has been paid, as required by the Mayor.

(e) If a proper application has been made, the Mayor shall rebate the tax to the qualified supermarket on or before March 1 of the succeeding tax year.

(f) Any rebates authorized under this section shall be paid from the General Fund of the District of Columbia.

(July 1, 2010, D.C. Law 18-186, § 2(b), 57 DCR 4351.)

**Cross references.** — Gross sales tax, “retail sale” and “sale at retail” defined, exceptions, see § 47-2001.

**Temporary Addition of Section.** — Section 2(b) of D.C. Law 17-298 added a section to read as follows:

“§ 47-3805. Supermarket real property tax rebate.

“(a) For the purposes of this section, the term “qualified supermarket” means a qualified supermarket, as defined in § 47-3801(2), for which all of the requirements for the real property tax exemption provided by § 47-1002(23), other than § 47-1002(23)(B)(iii), are satisfied.

“(b) Beginning October 1, 2007, if a qualified supermarket leases real property (or a portion thereof) that is subject to tax under Chapter 8 of Title 47, the qualified supermarket shall receive a rebate of the tax that represents the qualified supermarket’s pro rata share of the tax levied for the tax year on the real property (or portion thereof) that the qualified supermarket leases if:

“(1) The qualified supermarket is liable under the lease for its pro rata share of the tax;

“(2) An application for the rebate of the tax is made on or before December 31st of the succeeding tax year; and

“(3) The lessor paid the tax.

“(c) The rebate shall be the amount of the pro rata share of the tax paid by the qualified supermarket as required by the lease.

“(d) The application shall include:

“(1) A copy of the lease; and

“(2) Documentation that the tax has been paid, as required by the Mayor.

“(e) If a proper application has been made, the Mayor shall rebate the tax to the qualified supermarket on or before March 1st of the succeeding tax year.

“(f) Any rebates authorized under this section shall be paid from the General Fund of the District of Columbia.”.

Section 4(b) of D.C. Law 17-298 provided that the act shall expire after 225 days of its having taken effect.

Section 2(b) of D.C. Law 18-102 added a section to read as follows:

“§ 47-3805. Supermarket real property tax rebate.

“(a) For the purposes of this section, the term “qualified supermarket” means a qualified supermarket, as defined in § 47-3801, for which all of the requirements for the real property tax exemption provided by § 47-1002(23), other than § 47-1002(23)(B)(iii), are satisfied.

“(b) Beginning October 1, 2007, if a qualified supermarket leases real property (or a portion thereof) that is subject to tax under Chapter 8 of Title 47, the qualified supermarket shall receive a rebate of the tax that represents the qualified supermarket’s pro rata share of the tax levied for the tax year on the real property (or portion thereof) that the qualified supermarket leases if:

“(1) The qualified supermarket is liable under the lease for its pro rata share of the tax;

“(2) An application for the rebate of the tax is made on or before December 31 of the succeeding tax year; and

“(3) The lessor paid the tax.

“(c) The rebate shall be the amount of the pro rata share of the tax paid by the qualified supermarket as required by the lease.

“(d) The application shall include:

“(1) A copy of the lease; and

“(2) Documentation that the tax has been paid, as required by the Mayor.

“(e) If a proper application has been made, the Mayor shall rebate the tax to the qualified supermarket on or before March 1 of the succeeding tax year.

“(f) Any rebates authorized under this section shall be paid from the General Fund of the District of Columbia.”.

Section 4(b) of D.C. Law 18-102 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 2(b) of Neighborhood Supermarket Tax Relief Clarification Emergency Amendment Act of 2008 (D.C. Act 17-560, October 27, 2008, 55 DCR 12013).

For temporary (90 day) addition, see § 2 of Neighborhood Supermarket Tax Relief Clarification Congressional Review Emergency Act of 2009 (D.C. Act 18-1, January 23, 2009, 56 DCR 1620).

For temporary (90 day) addition, see § 2(b) of Neighborhood Supermarket Tax Relief Clarification Emergency Act of 2009 (D.C. Act 18-213, October 21, 2009, 56 DCR 8494).

**Legislative history of Law 18-186.** — Law 18-186, the “Neighborhood Supermarket Tax Relief Clarification Act of 2010”, was introduced in Council and assigned Bill No. 18-44, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 2, 2010, and April 20, 2010, respectively. Signed by the Mayor on May 7, 2010, it was assigned Act No. 18-395 and transmitted to both Houses of Congress for its review. D.C. Law 18-186 became effective on July 1, 2010.



## CHAPTER 39. TOLL TELECOMMUNICATION SERVICE TAX.

Sec.

- 47-3901. Definitions.
- 47-3902. Imposition of tax.
- 47-3903. Deductions.
- 47-3904. Exemptions.
- 47-3905. Returns and payment of tax.
- 47-3906. Alternate method of reporting.
- 47-3907. Credit.
- 47-3908. Authority of Mayor to determine tax; deficiencies in tax.

Sec.

- 47-3909 to 47-3918. [Repealed].
- 47-3919. Rulemaking authority.
- 47-3920. Effect of repealers and amendments.
- 47-3921. Applicability.
- 47-3922. Special rules for mobile telecommunications services.

**§ 47-3901. Definitions.**

For the purposes of this chapter, the term:

(1) "Customer" means the person or entity that contracts with the home service provider for District-based wireless telecommunication service; provided, that for the purposes of determining the place of primary use, if the end user of the District-based wireless telecommunication service is not the contracting party, the term "customer" shall include the end user of the District-based wireless telecommunication service. The term "customer" shall not include a reseller of District-based wireless telecommunication service or a serving carrier under an arrangement to serve the customer outside the home service provider's licensed service area.

(2) "District" means the District of Columbia.

(3) "District-based wireless telecommunication service" means mobile telecommunications service provided to a customer whose place of primary use is in the District.

(4) "Enhanced zip code" shall have the same meaning as set forth in 4 U.S.C. 124(4).

(5) "Gross charge" means all charges and fees paid for the act or privilege of originating or receiving in the District toll telecommunication service or District-based wireless telecommunication service, valued in money whether paid in money or otherwise, including cash, credits, services, and property of every kind or nature, and determined without any deduction on account of the cost of the telecommunication service, the cost of materials used, labor or service costs, or any other expenses.

(6) "Home service provider" means the facilities-based carrier or reseller with which the customer contracts for the provision of mobile telecommunications service.

(7) "Licensed service area" means the geographic area in which the home service provider is authorized by law or contract to provide mobile telecommunications service to the customer.

(8) "Mobile telecommunications service" means commercial mobile radio service, as defined in section 47 C.F.R. § 20.3, as in effect on June 1, 1999. The term "mobile telecommunications service" shall not include equipment sales, rental, maintenance, repair, or charges associated with wireless telecommunication equipment.

(9) "Person" means an individual, firm, partnership, society, club, association, joint-stock company, domestic or foreign corporation, estate, receiver,

trustee, assignee, referee, or a fiduciary or other representative, whether or not appointed by a court, or any combination of individuals acting as a unit.

(10) "Place of primary use" means the street address representative of where the customer's use of the mobile telecommunications service primarily occurs, which place shall be the residential street address or the primary business street address of the customer and shall be within the licensed service area of the home service provider.

(11) "Radio communication" or "communication by radio" means the transmission by radio of writing, signs, signals, pictures, and sound of all kinds.

(12) "Reseller" means a provider who purchases telecommunications services from another telecommunications service provider and then resells, uses as a component part of, or integrates the purchased services into a mobile telecommunication service. The term "reseller" shall not include a serving carrier with which the home service provider arranges for the purchased services to its customers outside the home service provider's licensed service area.

(13) "Serving carrier" means a facilities-based carrier providing mobile telecommunications service to a customer outside a home service provider's or reseller's licensed service area.

(14) "Toll telecommunication company" includes each person or lessee of a person who provides for the transmission or reception within the District of any form of toll telecommunication service for a consideration.

(15) "Toll telecommunication service" means the transmission or reception of any sound, vision, or speech communication for which there is a toll charge that varies in amount with the distance or elapsed transmission time of each individual communication or the transmission or reception of any sound, vision, or speech communication that entitles a person, upon the payment of a periodic charge that is determined as a flat amount or upon the basis of a total elapsed transmission time, to an unlimited number of communications to or from all or a substantial portion of persons who have telephone or radiotelephone stations in a specified area outside the local telephone system area in which the station that provides the service is located.

(16) "Wireless telecommunication company" means any person providing mobile telecommunications services, including a person or lessee of a person who provides for, or resells, the transmission or reception of any form of mobile telecommunications services for a fee directly to the public or such classes of eligible users as to be effectively available to the public.

(17) "Wireless telecommunication equipment" means personal tangible property used by a customer to transmit or receive District-based wireless telecommunication services.

(Sept. 20, 1989, D.C. Law 8-26, § 2, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 30, 1998, D.C. Law 12-100, § 2(e), 45 DCR 1533; Oct. 19, 2000, D.C. Law 13-172, § 2302(b), 47 DCR 6308; June 9, 2001, D.C. Law 13-305, § 302(f), 48 DCR 334; June 19, 2001, D.C. Law 13-313, § 16(d), 48 DCR 1873; Mar. 25, 2003, D.C. Law 14-215, § 2(b), 49 DCR 9444.)



**Cross references.** — Gross sales tax, exemptions, sales of personal property purchased by toll telecommunication and wireless telecommunication companies, see § 47-2005.

Taxation of personal property, exemptions, toll telecommunication and wireless telecommunication companies, see § 47-1508.

**Section references.** — This section is referred to in § 47-2001.

**Prior Codifications.** — 1981 Ed., § 47-3901.

**Effect of amendments.** — D.C. Law 13-172 in subsec. (2)(B) inserted “; or, beginning on April 30, 1998, 2-way land mobile radio used for taxicabs fare dispatch and for communication between taxicab drivers and their base”.

D.C. Law 13-305 rewrote par. (10) and added par. (14).

Prior to amendment, par. (10) read:

“(10) ‘Toll telecommunication company’ means, but is not limited to, each person or lessee of a person who provides for the transmission or reception, within the District, of any form of toll telecommunication service for a consideration.”

D.C. Law 13-313, in par. (2)(B), deleted “; or, beginning on April 30, 1998, 2-way land mobile radio used for taxicab fare dispatch and for communication between taxicab drivers and their base” following “personal communications service”; and rewrote par. (2)(C) which had read:

“(2)(C) ‘Commercial mobile service’ does not include equipment sales, rental, maintenance, repair, or charges associated with wireless telecommunication equipment.”

D.C. Law 14-215 rewrote the section.

**Temporary Addition of Section.** — For temporary (225 day) addition of section, see § 2 of Toll Telecommunications Service Tax Temporary Act of 1989 (D.C. Law 8-4, May 23, 1989, law notification 36 DCR 4154).

**Emergency legislation.** — For temporary (90-day) amendment of section, see § 2302(b) of the Fiscal Year 2001 Budget Support Emergency Act of 2000 (D.C. Act 13-376, July 24, 2000, 47 DCR 6574).

For temporary (90 day) amendment of section, see § 2302(b) of the Fiscal Year 2001 Budget Support Congressional Review Emergency Act of 2000 (D.C. Act 13-438, October 20, 2000, 47 DCR 8740).

For temporary (90 day) amendment of section, see § 2(b) of Mobile Telecommunications Sourcing Conformity Emergency Act of 2002 (D.C. Act 14-442, July 23, 2002, 49 DCR 7835).

For temporary (90 day) amendment of section, see § 2(b) of Mobile Telecommunications Sourcing Conformity Congressional Review Emergency Act of 2002 (D.C. Act 14-509, October 23, 2002, 49 DCR 10240).

For temporary (90 day) amendment of section, see § 2(b) of Mobile Telecommunications

Sourcing Conformity Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-5, January 22, 2003, 50 DCR 1446).

**Legislative history of Law 8-26.** — Law 8-26, the “Toll Telecommunications Service Tax Act of 1989,” was introduced in Council and assigned Bill No. 8-166, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 30, 1989 and June 13, 1989, respectively. Signed by the Mayor on June 27, 1989, it was assigned Act No. 8-48 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 12-100.** — Law 12-100, the “Commercial Mobile Telecommunication Service Tax Clarification Amendment Act of 1998,” was introduced in Council and assigned Bill No. 12-425, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 4, 1997, and January 6, 1998, respectively. Signed by the Mayor on January 27, 1998, it was assigned Act No. 12-276 and transmitted to both Houses of Congress for its review. D.C. Law 12-100 became effective on April 30, 1998.

**Legislative history of Law 13-172.** — Law 13-172, the “Fiscal Year 2001 Budget Support Act of 2000,” was introduced in Council and assigned Bill No. 13-679, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 15, 2000, and June 6, 2000, respectively. Signed by the Mayor on June 26, 2000, it was assigned Act No. 13-175 and transmitted to both Houses of Congress for its review. D.C. Law 13-172 became effective on October 19, 2000.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Legislative history of Law 13-313.** — For Law 13-313, see notes under § 47-2005.

**Legislative history of Law 14-215.** — Law 14-215, the “Mobile Telecommunications sourcing Conformity Act of 2002”, was introduced in Council and assigned Bill No. 14-700, which was referred to the Committee on Consumer and Regulatory Affairs. The Bill was adopted on first and second readings on July 2, 2002, and September 17, 2002, respectively. Signed by the Mayor on October 3, 2002, it was assigned Act No. 14-463 and transmitted to both Houses of Congress for its review. D.C. Law 14-215 became effective on March 25, 2003.

**Delegation of Authority.** — Delegation of authority pursuant to D.C. Law 7-204, the “Frigid Temperature Protection Amendment Act of 1988”, see Mayor’s Order 89-123, June 2, 1989.

Delegation of authority under D.C. Law 8-26, the “Toll Telecommunication Service Tax Act of 1989.”, see Mayor’s Order 91-175, October 24, 1991.

Delegation of authority pursuant to D.C. Law 9-157, the "Tissue Transplantation Distribution Amendment Act of 1992", see Mayor's Order 93-61, May 12, 1993.

**Editor's notes.** — Definitions applicable: The definitions in § 1-202 apply to terms appearing in the 1973 amendment to this section.

Applicability of Law 14-215: Section 3 of D.C. Law 14-215 provided: "This act shall apply to charges for mobile telecommunications services reflected on customer bills issued after August 1, 2002."

## § 47-3902. Imposition of tax.

(a) A tax shall be imposed on all toll telecommunication companies for the privilege of providing toll telecommunication service in the District. The rate for nonresidential customers shall be 11% of the monthly gross charges from the sale of toll telecommunication service that originates or terminates in the District, and for which a charge is made to a service address located in the District, regardless of where the charge is billed or paid and the rate for residential customers shall be 10% of the monthly gross charges from the sale of toll telecommunication service that originates or terminates in the District, and for which a charge is made to a service address located in the District, regardless of where the charge is billed or paid.

(b)(1) A tax shall be imposed on all wireless telecommunication companies for the privilege of providing mobile telecommunications service to a customer with a place of primary use within the District. The rate for nonresidential customers shall be 11% of the monthly gross charges from the sale of District-based wireless telecommunication services and the rate for residential customers shall be 10% of the monthly gross charges from the sale of District-based wireless telecommunication services. The tax shall be imposed and administered according to the provisions of § 47-3922. The tax under the mobile telecommunications service tax provisions of this chapter may be separately stated as a line item on the customer's bill.

(2) A mobile telecommunications service provider shall remit the tax to the District if the customer's place of primary use is within the District.

(3) For the purposes of subparagraph (1) of this paragraph, in determining whether a particular customer is a residential or nonresidential customer, a wireless telecommunications company may rely upon existing customer classifications, such as "individual," "consumer," "enterprise," "business," "corporate," or "government".

(c) The rates in subsections (a) and (b) of this section shall be subject to reduction in accordance with § 47-368.03.

(d) One-eleventh of the total tax collected from nonresidential customers pursuant to subsections (a) and (b) of this section, or any successor tax, shall be deposited in the Ballpark Revenue Fund established by [§ 10-1601.02].

(Sept. 20, 1989, D.C. Law 8-26, § 3, 36 DCR 4723; Sept. 10, 1992, D.C. Law 9-145, § 112, 39 DCR 4895; June 14, 1994, D.C. Law 10-128, § 107, 41 DCR 2096; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 30, 1998, D.C. Law 12-100, § 2(e), 45 DCR 1533; Mar. 25, 2003, D.C. Law 14-215, § 2(c), 49 DCR 9444; June 5, 2003, D.C. Law 14-307, § 902(e), 49 DCR 11664; Mar. 13, 2004, D.C. Law 15-105, § 86(b), 51 DCR 881; Apr. 8, 2005, D.C. Law



15-320, § 110(g), 52 DCR 1757; Sept. 19, 2006, D.C. Law 16-161, §§ 102, 201(c), 53 DCR 5392.)

**Prior Codifications.** — 1981 Ed., § 47-3902.

**Effect of amendments.** — D.C. Law 14-215, in subsec. (a), substituted “A tax shall be imposed on all toll telecommunications companies for the privilege of providing toll telecommunication service in the District. The” for “Beginning on March 1, 1989, a tax is imposed on all telecommunication companies for the privilege of providing toll telecommunication service in the District. After May 31, 1994, the”; and rewrote subsec. (b) which had read as follows: “(b) Beginning May 1, 1997, a tax is imposed on all wireless telecommunication companies for the privilege of providing commercial mobile service in the District. The rate shall be 10% of the monthly gross charges from the sale of District-based wireless telecommunication services that originate from, or are received in, the District for which an elapsed time, distance charge, or monthly recurring charge is made to District-based wireless telecommunication services. The tax under the wireless telecommunication service tax provisions of this chapter may be separately stated as a line item on the subscriber’s bill.”

D.C. Law 14-307, in subsec. (a), substituted “11%” for “10%”; in subsec. (b)(1), substituted “11%” for “10%”; and added subsec. (c).

D.C. Law 15-105, in subsec. (c), substituted “§ 47-368.03” for “§ 47-143”.

D.C. Law 15-320 rewrote subsecs. (a) and (b)(1); and added subsec. (d).

D.C. Law 16-161 added subsec. (b)(3); and, in subsec. (d) substituted “One-eleventh of the total tax collected from nonresidential customers” for “One-eleventh of the total tax collected”.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 3 of District of Columbia Gross Receipts and Toll Telecommunication Service Tax Temporary Amendment Act of 1991 (D.C. Law 9-34, August 17, 1991, law notification 38 DCR 5801).

For temporary (225 day) amendment of section, see § 3 of District of Columbia Gross Receipts and Toll Telecommunication Service Tax Temporary Amendment Act of 1992 (D.C. Law 9-124, June 11, 1992, law notification 39 DCR 4686).

Section 2(c) of D.C. Law 16-29, in subsec. (d), substituted “Beginning, April 8, 2005, one-eleventh of the total tax collected from nonresidential customers” for “One-eleventh of the total tax collected”.

Section 4(b) of D.C. Law 16-29 provided that the act shall expire after 225 days of its having taken effect.

Section 2(h) of D.C. Law 16-102, in subsec. (d), substituted “One-eleventh of the total tax collected from nonresidential customers” for “One-eleventh of the total tax collected”.

Section 11(b) of D.C. Law 16-102 provided that the act shall expire after 225 days of its having taken effect.

**Temporary Addition of Section.** — For temporary (225 day) addition of section, see § 3 of Toll Telecommunications Service Tax Temporary Act of 1989 (D.C. Law 8-4, May 23, 1989, law notification 36 DCR 4154).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 902(e) and 903 of Fiscal Year 2003 Budget Support Amendment Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) amendment of section, see §§ 902(e) and 903 of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of section, see §§ 2(c) and 3 of Mobile Telecommunications Sourcing Conformity Emergency Act of 2002 (D.C. Act 14-442, July 23, 2002, 49 DCR 7835).

For temporary (90 day) amendment of section, see § 2(c) of Mobile Telecommunications Sourcing Conformity Congressional Review Emergency Act of 2002 (D.C. Act 14-509, October 23, 2002, 49 DCR 10240).

For temporary (90 day) amendment of section, see § 2(c) of Mobile Telecommunications Sourcing Conformity Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-5, January 22, 2003, 50 DCR 1446).

For temporary (90 day) amendment of section, see §§ 902(e) and 903 of Fiscal Year 2003 Budget Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

For temporary (90 day) amendment of section, see § 2(c) of Utility Taxes Technical Corrections Emergency Act of 2005 (D.C. Act 16-86, May 18, 2005, 52 DCR 5265).

For temporary (90 day) amendment of section, see § 2(c) of Utility Technical Corrections Congressional Review Emergency Act of 2005 (D.C. Act 16-177, October 4, 2005, 52 DCR 9074).

For temporary (90 day) amendment of section, see § 2(h) of Finance and Revenue Technical Amendments Emergency Amendment Act of 2006 (D.C. Act 16-260, January 26, 2006, 53 DCR 780).

For temporary (90 day) amendment of section, see § 2(h) of Finance and Revenue Technical Amendments Congressional Review

Emergency Amendment Act of 2006 (D.C. Act 16-361, April 26, 2006, 53 DCR 3619).

For temporary (90 day) amendment of section, see §§ 102, 201(c) of Natural Gas and Home Heating Oil Taxation Relief and Ratepayer Clarification Emergency Act of 2006 (D.C. Act 16-376, May 19, 2006, 53 DCR 4392).

For temporary (90 day) amendment of section, see §§ 3, 201(c) and 202(b) of Natural Gas and Home Heating Oil Taxation Relief and Ratepayer Clarification Congressional Review Emergency Amendment Act of 2006 (D.C. Act 16-443, July 21, 2006, 53 DCR

**Legislative history of Law 8-26.** — For legislative history of D.C. Law 8-26, see Historical and Statutory Notes following § 47-3901.

**Legislative history of Law 9-145.** — Law 9-145, the "Omnibus Budget Support Act of 1992," was introduced in Council and assigned Bill No. 9-222, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 12, 1992, and June 2, 1992, respectively. Approved without the signature of the Mayor on June 22, 1992, it was assigned Act No. 9-225 and transmitted to both Houses of Congress for its review. D.C. Law 9-145 became effective on September 10, 1992.

**Legislative history of Law 10-128.** — Law 10-128, the "Omnibus Budget Support Act of 1994," was introduced in Council and assigned Bill No. 10-575, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on March 22, 1994, and April 12, 1994, respectively. Signed by the Mayor on April 14, 1994, it was assigned Act No. 10-225 and transmitted to both Houses of Congress for its review. D.C. Law 10-128 became effective on June 14, 1994.

**Legislative history of Law 12-100.** — For legislative history of D.C. Law 12-100, see His-

torical and Statutory Notes following § 47-3901.

**Legislative history of Law 14-215.** — For Law 14-215, see notes following § 47-3901.

**Legislative history of Law 14-307.** — For Law 14-307, see notes following § 47-903.

**Legislative history of Law 15-105.** — For Law 15-105, see notes following § 47-902.

**Legislative history of Law 15-320.** — For Law 15-320, see notes following § 47-2761.

**Legislative history of Law 16-29.** — For Law 16-29, see notes following § 47-368.03.

**Legislative history of Law 16-161.** — For Law 16-161, see notes following § 47-368.03.

**Editor's notes.** — Section 4(b) of D.C. Law 12-100 provided that returns or payments due from wireless telecommunication companies for the period beginning May 1, 1997, through the effective date of this act not previously filed or paid shall be due by the 45th day after the effective date of this act.

Section 4(c) of D.C. Law 12-100 provided that beginning in FY 1999, the amount of tax imposed by the act shall not be calculated as gross revenue to which the tax is then applied.

For temporary repeal of § 106 of D.C. Act 11-360, see § 2(e) of the Fiscal Year 1997 Budget Support Emergency Amendment Act of 1997 (D.C. Act 12-37, March 18, 1997, 44 DCR 1935).

Applicability of Law 14-215: Section 3 of D.C. Law 14-215 provided: "This act shall apply to charges for mobile telecommunications services reflected on customer bills issued after August 1, 2002."

Section 903 of D.C. Law 14-307 provided: "Sec. 903. Applicability. Section 902 shall apply as of January 1, 2003."

Applicability: Section 202(b) of D.C. Law 16-161 provided that section 201(c) shall apply as of April 8, 2005.

## § 47-3903. Deductions.

(a) A deduction may be taken from gross charges for amounts represented by accounts found to be worthless and actually charged off for income or franchise tax purposes, provided, that:

- (1) The tax on the amounts has been previously paid to the District;
- (2) Any amounts deducted from gross charges at the time of or after the date of write-off which are subsequently collected have been included in the first return filed after the gross charges are collected and taxes have been paid on the collected amounts; and
- (3) The amounts have not been deducted after the payment of the tax on the amounts for periods which are closed by the statute of limitations.

(b) Gross charges subject to the tax imposed pursuant to the wireless telecommunication service tax provisions of this chapter shall not include amounts determined to be fraudulent nor shall it include indemnification



between carriers intended to cover the cost of fraudulent communication activity.

(Sept. 20, 1989, D.C. Law 8-26, § 4, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 30, 1998, D.C. Law 12-100, § 2(e), 45 DCR 1533.)

**Prior Codifications.** — 1981 Ed., § 47-3903.

**Temporary Addition of Section.** — For temporary (225 day) addition of section, see § 4 of Toll Telecommunications Service Tax Temporary Act of 1989 (D.C. Law 8-4, May 23, 1989, law notification 36 DCR 4154).

**Legislative history of Law 8-26.** — For legislative history of D.C. Law 8-26, see Historical and Statutory Notes following § 47-3901.

**Legislative history of Law 12-100.** — For legislative history of D.C. Law 12-100, see Historical and Statutory Notes following § 47-3901.

## § 47-3904. Exemptions.

(a) Gross charges from the sale, by any toll or wireless telecommunication company, of toll telecommunication or District-based wireless telecommunication service for resale to any other toll or wireless telecommunication company or public utility subject to tax under this chapter or § 47-2501 shall be exempt from taxation under this chapter.

(b) Gross charges from the sale, by any public utility of utility service for resale to a toll telecommunication or wireless telecommunication company subject to tax under this chapter shall be exempt from taxation under § 47-2501.

(Sept. 20, 1989, D.C. Law 8-26, § 5, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 30, 1998, D.C. Law 12-100, § 2(e), 45 DCR 1533.)

**Prior Codifications.** — 1981 Ed., § 47-3904.

**Temporary Addition of Section.** — For temporary (225 day) addition of section, see § 5 of Toll Telecommunications Service Tax Temporary Act of 1989 (D.C. Law 8-4, May 23, 1989, law notification 36 DCR 4154).

**Legislative history of Law 8-26.** — For legislative history of D.C. Law 8-26, see Historical and Statutory Notes following § 47-3901.

**Legislative history of Law 12-100.** — For legislative history of D.C. Law 12-100, see Historical and Statutory Notes following § 47-3901.

## § 47-3905. Returns and payment of tax.

(a) Each toll telecommunication company shall be subject to the following filing and payment requirements:

(1) On or before the 20th day of each calendar month, each toll telecommunication company subject to tax under this chapter shall file a return with the Mayor that reports the amount of its monthly gross charges for the preceding calendar month from the sale of toll telecommunication services that originate or terminate in the District and for which a charge is made to a service address located in the District, regardless of where the charge is billed or paid.

(2) For each calendar month beginning March 1, 1989, each toll telecommunication company shall pay the tax imposed by this chapter before the 21st day of the succeeding calendar month. The return for each calendar month

shall be filed at the time payment is made or on the 20th day of the succeeding calendar month, whichever is earlier.

(3) The form of the return shall be prescribed by the Mayor and the return shall contain information that the Mayor considers necessary for the proper administration of the tax.

(b) Each wireless telecommunication company shall be subject to the following filing and payment requirements:

(1) On or before the 20th day of each calendar month, each wireless telecommunication company subject to tax under this chapter shall file a return with the Mayor that reports the amount of its monthly gross charges for the preceding calendar month from the sale of District-based wireless telecommunication service.

(2) For each calendar month beginning May 1, 1997, each wireless telecommunication company shall pay the tax before the 21st day of the succeeding calendar month. The return for each calendar month shall be filed at the time payment is made or on the 20th day of the succeeding calendar month, whichever is earlier.

(3) The form of the return shall be prescribed by the Mayor and the return shall contain information that the Mayor considers necessary for the proper administration of the tax.

(Sept. 20, 1989, D.C. Law 8-26, § 6, 36 DCR 4723; Apr. 9, 1997, D.C. Law 11-198, § 106, 43 DCR 4569; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 9, 1997, D.C. Law 11-255, § 59, 44 DCR 1271; Apr. 30, 1998, D.C. Law 12-100, § 2(e), 45 DCR 1533.)

**Prior Codifications.** — 1981 Ed., § 47-3905.

**Temporary Addition of Section.** — For temporary (225 day) addition of section, see § 6 of Toll Telecommunications Service Tax Temporary Act of 1989 (D.C. Law 8-4, May 23, 1989, law notification 36 DCR 4154).

**Emergency legislation.** — For temporary amendment of section, see § 108 of the Fiscal Year 1997 Budget Support Emergency Act of 1996 (D.C. Act 11-302, July 25, 1996, 43 DCR 4181).

For temporary repeal of § 106 of D.C. Act 11-360, see § 2(e) of the Fiscal Year 1997 Budget Support Emergency Amendment Act of 1997 (D.C. Act 12-37, March 18, 1997, 44 DCR 1935).

Section 1001 of D.C. Act 11-302 provided for application of the act.

**Legislative history of Law 8-26.** — For legislative history of D.C. Law 8-26, see Historical and Statutory Notes following § 47-3901.

**Legislative history of Law 11-198.** — Law 11-198, the "Fiscal Year 1997 Budget Support

Act of 1996," was introduced in Council and assigned Bill No. 11-741, which was referred to the Committee on the Whole. The Bill was adopted on first and second readings on June 19, 1996, and July 3, 1996, respectively. Signed by the Mayor on July 26, 1996, it was assigned Act No. 11-360 and transmitted to both Houses of Congress for its review. D.C. Law 11-198 became effective on April 9, 1997.

**Legislative history of Law 11-255.** — Law 11-255, the "Second Technical Amendments Act of 1996," was introduced in Council and assigned Bill No. 11-905, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on November 7, 1996, and December 3, 1996, respectively. Signed by the Mayor on December 24, 1996, it was assigned Act No. 11-519 and transmitted to both Houses of Congress for its review. D.C. Law 11-255 became effective on April 9, 1997.

**Legislative history of Law 12-100.** — For legislative history of D.C. Law 12-100, see Historical and Statutory Notes following § 47-3901.

## § 47-3906. Alternate method of reporting.

(a) A taxpayer subject to the provisions of § 47-3902 may be allowed an



alternate method of reporting its monthly gross charges subject to the tax under this chapter upon showing to the satisfaction of the Mayor, within 90 days from the effective date of this act or 30 days from the first day a toll or wireless telecommunication company begins offering a new toll or wireless telecommunication service in the District, that it does not have the capability to identify the gross charges from the sale of District-based wireless telecommunication, or it is unable to identify the jurisdiction of origination or termination of a particular toll telecommunication service.

(b) The showing shall be made by a petition to the Mayor which shall include the factual basis for the inability of the taxpayer to identify the charges, with supporting documentation, and an alternate method of reporting the charges that the taxpayer believes is reasonable and equitable.

(c) The Mayor may employ a reasonable and equitable alternate method for reporting the gross charges of the taxpayer based on information submitted pursuant to this chapter or based on any other information made available to the Mayor.

(Sept. 20, 1989, D.C. Law 8-26, § 7, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 30, 1998, D.C. Law 12-100, § 2(e), 45 DCR 1533.)

**Prior Codifications.** — 1981 Ed., § 47-3906.

**Temporary Addition of Section.** — For temporary (225 day) addition of section, see § 7 of Toll Telecommunications Service Tax Temporary Act of 1989 (D.C. Law 8-4, May 23, 1989, law notification 36 DCR 4154).

**Legislative history of Law 8-26.** — For legislative history of D.C. Law 8-26, see Historical and Statutory Notes following § 47-3901.

**Legislative history of Law 12-100.** — For legislative history of D.C. Law 12-100, see Historical and Statutory Notes following § 47-3901.

## § 47-3907. Credit.

(a) To prevent actual multi-state taxation of the sale of toll or wireless telecommunication service, the taxpayer, upon proof that it has paid a properly due excise, sales, use, or gross receipts tax in another jurisdiction on a sale that is subject to taxation under this chapter, shall be allowed a credit against the tax for the amount paid, but in no event shall the credit exceed the tax imposed under this chapter.

(b) A taxpayer may be allowed an alternate method for reporting the credit upon showing to the satisfaction of the Mayor that it does not have the capability through reasonable measures to determine the credit. The showing may be made by a petition to the Mayor which includes the factual basis for the inability to determine the credit through reasonable measures, and an alternate method of reporting the credit that the taxpayer believes is reasonable and equitable.

(Sept. 20, 1989, D.C. Law 8-26, § 8, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 30, 1998, D.C. Law 12-100, § 2(e), 45 DCR 1533.)

**Prior Codifications.** — 1981 Ed., § 47-3907.

**Temporary Addition of Section.** — For temporary (225 day) addition of section, see § 8

of Toll Telecommunications Service Tax Temporary Act of 1989 (D.C. Law 8-4, May 23, 1989, law notification 36 DCR 4154).

**Legislative history of Law 8-26.** — For legislative history of D.C. Law 8-26, see Historical and Statutory Notes following § 47-3901.

**Legislative history of Law 12-100.** — For legislative history of D.C. Law 12-100, see Historical and Statutory Notes following § 47-3901.

## § 47-3908. Authority of Mayor to determine tax; deficiencies in tax.

(a) The Mayor shall have the authority to determine, redetermine, assess, or reassess any tax due under this chapter. Assessments of any deficiencies in the tax due under this chapter, or any interest and penalties thereon, shall be governed by § 47-4312.

(b) Any assessment of tax, penalties, and interest that has become final pursuant to § 47-4312 shall be due and payable within 10 days after service of a final assessment by the Mayor or service of a final order by the Office of Administrative Hearings, as applicable.

(c) Except as provided in § 47-4312, any person aggrieved by an assessment of a deficiency in tax under the provisions of this section may appeal to the Superior Court of the District of Columbia in the same manner and to the same extent as set forth in §§ 47-3303, 47-3304, and 47-3308.

(Sept. 20, 1989, D.C. Law 8-26, § 9, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Dec. 7, 2004, D.C. Law 15-217, § 4(i), 51 DCR 9126.)

**Prior Codifications.** — 1981 Ed., § 47-3908.

**Effect of amendments.** — D.C. Law 15-217 rewrote subsecs. (a) and (b); and, in subsec. (c), substituted "Except as provided in § 47-4312, any person aggrieved by an assessment of a deficiency in tax" for "Any person aggrieved by an assessment of a deficiency in tax finally determined by the Mayor".

**Temporary Addition of Section.** — For temporary (225 day) addition of section, see § 9 of Toll Telecommunications Service Tax Temporary Act of 1989 (D.C. Law 8-4, May 23, 1989, law notification 36 DCR 4154).

**Emergency legislation.** — For temporary

(90 day) amendment of section, see § 3(i) of Office of Administrative Hearings Establishment Emergency Amendment Act of 2004 (D.C. Act 15-513, August 2, 2004, 51 DCR 8976).

For temporary (90 day) amendment of section, see § 3(i) of Office of Administrative Hearings Establishment Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-553, October 26, 2004, 51 DCR 10359).

**Legislative history of Law 8-26.** — For legislative history of D.C. Law 8-26, see Historical and Statutory Notes following § 47-3901.

**Legislative history of Law 15-217.** — For Law 15-217, see notes following § 47-1528.

## § 47-3909. Compromises. [Repealed].

Repealed.

(Sept. 20, 1989, D.C. Law 8-26, § 10, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(ccc)(2), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-3909.

**Temporary Addition of Section.** — For temporary (225 day) addition of section, see

§ 10 of Toll Telecommunications Service Tax Temporary Act of 1989 (D.C. Law 8-4, May 23, 1989, law notification 36 DCR 4154).

**Legislative history of Law 8-26.** — For



legislative history of D.C. Law 8-26, see Historical and Statutory Notes following § 47-3901.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor's notes.** — Section 410(e) of D.C.

Law 13-305 provided: "Section 406(b), (d), (f), (l), (n), (o), (r), (v), (x) through (aa), (cc), (ff), (gg), (ll), (pp), (vv), (ww), (aaa), (ccc), (eee), and (ggg) shall apply as of January 1, 2001."

## § 47-3910. Closing agreements. [Repealed].

Repealed.

(Sept. 20, 1989, D.C. Law 8-26, § 11, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(ccc)(2), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-3910.

**Temporary Addition of Section.** — For temporary (225 day) addition of section, see § 11 of Toll Telecommunications Service Tax Temporary Act of 1989 (D.C. Law 8-4, May 23, 1989, law notification 36 DCR 4154).

**Legislative history of Law 8-26.** — For legislative history of D.C. Law 8-26, see Historical and Statutory Notes following § 47-3901.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor's notes.** — Section 410(e) of D.C. Law 13-305 provided: "Section 406(b), (d), (f), (l), (n), (o), (r), (v), (x) through (aa), (cc), (ff), (gg), (ll), (pp), (vv), (ww), (aaa), (ccc), (eee), and (ggg) shall apply as of January 1, 2001."

## § 47-3911. Testimony; production of books and records. [Repealed].

Repealed.

(Sept. 20, 1989, D.C. Law 8-26, § 12, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(ddd)(2), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-3911.

**Temporary Addition of Section.** — For temporary (225 day) addition of section, see § 12 of Toll Telecommunications Service Tax Temporary Act of 1989 (D.C. Law 8-4, May 23, 1989, law notification 36 DCR 4154).

**Legislative history of Law 8-26.** — For legislative history of D.C. Law 8-26, see Historical and Statutory Notes following § 47-3901.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor's notes.** — Section 410(d) of D.C. Law 13-305 provided: "Section 406(a), (c), (j), (m), (p), (q), (s), (w), (bb), (dd), (ee), (hh) through (kk), (mm) through (oo), (qq) through (uu), (yy), (zz), (bbb), (ddd), and (fff) shall apply for all tax years or taxable periods beginning after December 31, 2000."

## § 47-3912. Interest and penalties. [Repealed].

Repealed.

(Sept. 20, 1989, D.C. Law 8-26, § 13, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(ddd)(2), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-3912.

**Temporary Addition of Section.** — For temporary (225 day) addition of section, see

§ 13 of Toll Telecommunications Service Tax Temporary Act of 1989 (D.C. Law 8-4, May 23, 1989, law notification 36 DCR 4154).

**Legislative history of Law 8-26.** — For

legislative history of D.C. Law 8-26, see Historical and Statutory Notes following § 47-3901.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor's notes.** — Section 410(d) of D.C. Law 13-305 provided: "Section 406(a), (c), (j),

(m), (p), (q), (s), (w), (bb), (dd), (ee), (hh) through (kk), (mm) through (oo), (qq) through (uu), (yy), (zz), (bbb), (ddd), and (fff) shall apply for all tax years or taxable periods beginning after December 31, 2000."

## § 47-3913. Jeopardy assessments. [Repealed].

Repealed.

(Sept. 20, 1989, D.C. Law 8-26, § 14, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(eee)(2), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-3913.

**Temporary Addition of Section.** — For temporary (225 day) addition of section, see § 14 of Toll Telecommunications Service Tax Temporary Act of 1989 (D.C. Law 8-4, May 23, 1989, law notification 36 DCR 4154).

**Legislative history of Law 8-26.** — For legislative history of D.C. Law 8-26, see Historical and Statutory Notes following § 47-3901.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor's notes.** — Section 410(e) of D.C. Law 13-305 provided: "Section 406(b), (d), (f), (l), (n), (o), (r), (v), (x) through (aa), (cc), (ff), (gg), (ll), (pp), (vv), (ww), (aaa), (ccc), (eee), and (ggg) shall apply as of January 1, 2001."

## § 47-3914. Assessment; collection; deadline; fraudulent returns; extensions. [Repealed].

Repealed.

(Sept. 20, 1989, D.C. Law 8-26, § 15, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(fff)(2), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-3914.

**Temporary Addition of Section.** — For temporary (225 day) addition of section, see § 15 of Toll Telecommunications Service Tax Temporary Act of 1989 (D.C. Law 8-4, May 23, 1989, law notification 36 DCR 4154).

**Legislative history of Law 8-26.** — For legislative history of D.C. Law 8-26, see Historical and Statutory Notes following § 47-3901.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor's notes.** — Section 410(d) of D.C. Law 13-305 provided: "Section 406(a), (c), (j), (m), (p), (q), (s), (w), (bb), (dd), (ee), (hh) through (kk), (mm) through (oo), (qq) through (uu), (yy), (zz), (bbb), (ddd), and (fff) shall apply for all tax years or taxable periods beginning after December 31, 2000."

## § 47-3915. Overpayment; credit or refund; time for filing; interest. [Repealed].

Repealed.

(Sept. 20, 1989, D.C. Law 8-26, § 16, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(fff)(2), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-3915.

**Temporary Addition of Section.** — For temporary (225 day) addition of section, see



§ 16 of Toll Telecommunications Service Tax Temporary Act of 1989 (D.C. Law 8-4, May 23, 1989, law notification 36 DCR 4154).

**Legislative history of Law 8-26.** — For legislative history of D.C. Law 8-26, see Historical and Statutory Notes following § 47-3901.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor's notes.** — Section 410(d) of D.C. Law 13-305 provided: "Section 406(a), (c), (j), (m), (p), (q), (s), (w), (bb), (dd), (ee), (hh) through (kk), (mm) through (oo), (qq) through (uu), (yy), (zz), (bbb), (ddd), and (fff) shall apply for all tax years or taxable periods beginning after December 31, 2000."

## § 47-3916. Lien for taxes. [Repealed].

Repealed.

(Sept. 20, 1989, D.C. Law 8-26, § 17, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(ggg)(2), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-3916.

**Temporary Addition of Section.** — For temporary (225 day) addition of section, see § 17 of Toll Telecommunications Service Tax Temporary Act of 1989 (D.C. Law 8-4, May 23, 1989, law notification 36 DCR 4154).

**Legislative history of Law 8-26.** — For legislative history of D.C. Law 8-26, see Historical and Statutory Notes following § 47-3901.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor's notes.** — Section 410(e) of D.C. Law 13-305 provided: "Section 406(b), (d), (f), (l), (n), (o), (r), (v), (x) through (aa), (cc), (ff), (gg), (ll), (pp), (vv), (ww), (aaa), (ccc), (eee), and (ggg) shall apply as of January 1, 2001."

## § 47-3917. Secrecy of returns. [Repealed].

Repealed.

(Sept. 20, 1989, D.C. Law 8-26, § 18, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; June 9, 2001, D.C. Law 13-305, § 406(ggg)(2), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-3917.

**Temporary Addition of Section.** — For temporary (225 day) addition of section, see § 18 of Toll Telecommunications Service Tax Temporary Act of 1989 (D.C. Law 8-4, May 23, 1989, law notification 36 DCR 4154).

**Legislative history of Law 8-26.** — For legislative history of D.C. Law 8-26, see Historical and Statutory Notes following § 47-3901.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor's notes.** — Section 410(e) of D.C. Law 13-305 provided: "Section 406(b), (d), (f), (l), (n), (o), (r), (v), (x) through (aa), (cc), (ff), (gg), (ll), (pp), (vv), (ww), (aaa), (ccc), (eee), and (ggg) shall apply as of January 1, 2001."

## § 47-3918. Personal debt liability; priority; collection; "person" defined. [Repealed].

Repealed.

(Sept. 20, 1989, D.C. Law 8-26, § 19, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 30, 1998, D.C. Law 12-100 § 2(f), 45 DCR 1533; June 9, 2001, D.C. Law 13-305, § 406(ggg)(2), 48 DCR 334.)

**Prior Codifications.** — 1981 Ed., § 47-3918.

**Temporary Addition of Section.** — For temporary (225 day) addition of section, see § 19 of Toll Telecommunications Service Tax Temporary Act of 1989 (D.C. Law 8-4, May 23, 1989, law notification 36 DCR 4154).

**Legislative history of Law 8-26.** — For legislative history of D.C. Law 8-26, see Historical and Statutory Notes following § 47-3901.

**Legislative history of Law 12-100.** — For

legislative history of D.C. Law 12-100, see Historical and Statutory Notes following § 47-3901.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Editor's notes.** — Section 410(e) of D.C. Law 13-305 provided: "Section 406(b), (d), (f), (l), (n), (o), (r), (v), (x) through (aa), (cc), (ff), (gg), (ll), (pp), (vv), (ww), (aaa), (ccc), (eee), and (ggg) shall apply as of January 1, 2001."

## § 47-3919. Rulemaking authority.

The Mayor shall issue rules to carry out the provisions of this act in accordance with § 2-505.

(Sept. 20, 1989, D.C. Law 8-26, § 23, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3919.

**Temporary Addition of Section.** — For temporary (225 day) addition of section, see § 23 of Toll Telecommunications Service Tax Temporary Act of 1989 (D.C. Law 8-4, May 23, 1989, law notification 36 DCR 4154).

**Legislative history of Law 8-26.** — For legislative history of D.C. Law 8-26, see Historical and Statutory Notes following § 47-3901.

**References in text.** — "This act," referred to in this section, is D.C. Law 8-26, which is primarily codified as § 47-3901 et seq.

## § 47-3920. Effect of repealers and amendments.

(a) The repeal or amendment by this act of any provision of law shall not affect any act done or any right accrued or accruing under the provision of law before September 20, 1989 or any suit or proceeding commenced before September 20, 1989, but all rights and liabilities under prior law shall continue and may be enforced in the same manner and to the same extent as if the repeal or amendment had not been made.

(b) All offenses committed and all penalties incurred prior to September 20, 1989 under any provision of law repealed or amended, may be prosecuted and punished in the same manner and with the same effect as if this act had not been enacted.

(Sept. 20, 1989, D.C. Law 8-26, § 24, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3920.

**Temporary Addition of Section.** — For temporary (225 day) addition of section, see § 24 of Toll Telecommunications Service Tax Temporary Act of 1989 (D.C. Law 8-4, May 23, 1989, law notification 36 DCR 4154).

**Legislative history of Law 8-26.** — For legislative history of D.C. Law 8-26, see Historical and Statutory Notes following § 47-3901.

**References in text.** — "This act," referred to in (a) and (b), is D.C. Law 8-26, which is primarily codified as § 47-3901 et seq.

## § 47-3921. Applicability.

The provisions of [D.C. Law 8-4 or 8-26] § 22 [codified in § 47-2501] shall



apply as of July 1, 1986. All other sections of this act shall apply as of March 1, 1989.

(Sept. 20, 1989, D.C. Law 8-26, § 25, 36 DCR 4723; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)

**Prior Codifications.** — 1981 Ed., § 47-3921.

**Temporary Addition of Section.** — For temporary (225 day) addition of section, see § 25 of Toll Telecommunications Service Tax Temporary Act of 1989 (D.C. Law 8-4, May 23, 1989, law notification 36 DCR 4154).

**Legislative history of Law 8-26.** — For

legislative history of D.C. Law 8-26, see Historical and Statutory Notes following § 47-3901.

**References in text.** — “Section 22” is § 22 of D.C. Law 8-26, which is codified at § 47-2501.

“This act,” referred to in this section, is D.C. Law 8-26, which is primarily codified as § 47-3901 et seq.

## § 47-3922. Special rules for mobile telecommunications services.

(a) Mobile telecommunications service provided to a customer and billed by or for the customer’s home service provider shall be deemed to be provided by the home service provider at the customer’s place of primary use. Subject to the exceptions in 4 U.S.C. §§ 116(b) and (c), charges for mobile telecommunications service shall be subject to the tax imposed by this chapter if the customer’s place of primary use is within the District, regardless of where the mobile telecommunications services originate, terminate, or pass through. No charges for mobile telecommunications service shall be taxable under this chapter if the customer’s place of primary use is outside the District.

(b) If otherwise taxable and nontaxable charges for mobile telecommunications service are aggregated, the charges for nontaxable mobile telecommunications service shall be subject to taxation unless the home service provider can reasonably identify charges not subject to taxation from its books and records that are kept in the regular course of business. A customer shall not rely upon the nontaxability of charges for mobile telecommunications services unless the customer’s home service provider separately states the charges for nontaxable mobile telecommunications services from taxable charges or the home service provider elects, after receiving written notice from the customer in the form required by the provider, to provide verifiable data based upon the home service provider’s books and records that are kept in the regular course of business that reasonably identifies the nontaxable charges.

(c) The Mayor may provide, or designate a database provider to provide, a home service provider with an electronic database that meets the requirements of 4 U.S.C. § 119. If a database is provided and maintained in accordance with 4 U.S.C. §§ 119 and 121, a home service provider shall be held harmless from any tax, charge, or fee liability for errors or omissions due solely to reliance on the data contained in the database. If no electronic database is provided by the Mayor or a designated database provider, a home service provider may use an enhanced zip code to assign each street address to a specific taxing jurisdiction and, if employed and maintained in accordance with 4 U.S.C. §§ 120 and 121, the home service provider shall be held harmless from any tax, charge, or fee liability that otherwise would be due solely as a result of an assignment of a street address to an incorrect taxing jurisdiction.

(d)(1) A home service provider shall obtain and maintain a customer's place of primary use. Subject to 4 U.S.C. § 121, if the home service provider's reliance on information provided by its customer is in good faith, the home service provider:

(A) May rely on the applicable residential or business street address provided by the home service provider's customer; and

(B) Shall not be liable for any additional taxes, charges, or fees based on a different determination of the place of primary use for taxes, charges, or fees that are customarily passed on to the customer as a separate itemized charge.

(2) The Mayor may correct the place of primary use or correct the assignment of a taxing jurisdiction by a home service provider in accordance with 4 U.S.C. § 121.

(3) Except as provided in paragraphs (1) and (2) of this subsection, a home service provider may treat the address used by the home service provider for tax purposes for any customer under a service contract or agreement in effect on or before July 28, 2002, as that customer's place of primary use for the remaining term of the service contract or agreement, excluding any extension or renewal of the service contract or agreement, for purposes of determining the taxing jurisdiction to which taxes, charges, or fees on charges for mobile telecommunications service should be remitted.

(e) If a customer believes that an amount of tax, charge, or fee or an assignment of place of primary use or taxing jurisdiction included on a bill under the provisions of this section is erroneous, the customer shall notify the home service provider in writing. The customer shall include in this written notification the street address for the customer's place of primary use, the account name and number for which the customer seeks a correction, a description of the error asserted by the customer, and any other information that the home service provider reasonably requires to process the request. Within 60 days of receiving a notice under this section, the home service provider shall review its records to determine the customer's taxing jurisdiction. If this review shows that the amount of tax, charge, or fee or assignment of place of primary use or taxing jurisdiction is in error, the home service provider shall correct the error and refund or credit the amount of tax, charge, or fee erroneously collected from the customer for a period not to exceed 2 years. If this review shows that the amount of tax, charge, or fee or assignment of place of primary use or taxing jurisdiction is correct, the home service provider shall provide a written explanation to the customer. The procedures in this subsection shall be the first course of remedy available to customers seeking correction of assignment of place of primary use or taxing jurisdiction, or a refund of or other compensation for taxes, charges, or fees erroneously collected by the home service provider, and no cause of action based upon a dispute arising from such taxes, charges, or fees shall accrue until a customer has exhausted the remedies set forth in this subsection.

(f) The Mayor shall issue regulations to implement the provisions of this section and § 47-3902(b). The proposed rules shall be submitted to the Council for a 90-day review period, excluding Saturdays, Sundays, legal holidays, and days of Council recess. If the Council does not approve or disapprove the



proposed rules, in whole or in part, by resolution within the 90-day review period, the proposed rules shall be deemed approved.

(March 25, 2003, D.C. Law 14-215, § 2(d), 49 DCR 9444.)

**Emergency legislation.** — For temporary (90 day) addition of this section, see §§ 2(d) and (3) of Mobile Telecommunications Sourcing Conformity Emergency Act of 2002 (D.C. Act 14-442, July 23, 2002, 49 DCR 7835).

For temporary (90 day) addition of this section, see § 2(d) of Mobile Telecommunications Sourcing Conformity Congressional Review Emergency Act of 2002 (D.C. Act 14-509, October 23, 2002, 49 DCR 10240).

For temporary (90 day) addition of this sec-

tion, see § 2(d) of Mobile Telecommunications Sourcing Conformity Congressional Review Emergency Amendment Act of 2003 (D.C. Act 15-5, January 22, 2003, 50 DCR 1446).

**Legislative history of Law 14-215.** — For Law 14-215, see notes following § 47-3901.

**Editor's notes.** — Applicability of Law 14-215: Section 3 of D.C. Law 14-215 provided: "This act shall apply to charges for mobile telecommunications services reflected on customer bills issued after August 1, 2002."

CHAPTER 40. DRUG PREVENTION AND CHILDREN  
AT RISK TAX CHECK-OFF.

Sec.

47-4001. Definitions.

47-4002. Establishment of the Public Fund for  
Drug Prevention and Children at  
Risk; duties.

Sec.

47-4003. [Repealed].

47-4004. [Repealed].

47-4005. Rules.

§ 47-4001. Definitions.

For the purposes of this chapter, the term:

(1) "District" means the District of Columbia.

(2) "Children at risk" means persons under 18 years of age who have had direct or indirect contact with drugs.

(3) "Drug prevention" means a program designed to promote positive self-worth and stress the importance of the avoidance of drug and alcohol consumption.

(4) "Fund" means the Public Fund established in § 47-4002, which is responsible for investment and distribution of the funds generated by the tax check-off.

(5) "Tax check-off" means the drug prevention and children at risk tax check-off system established in § 47-1812.11b.

(Mar. 8, 1991, D.C. Law 8-246, § 2, 38 DCR 371; Nov. 20, 1993, D.C. Law 10-56, § 10, 40 DCR 7222; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-236, § 2(d), 46 DCR 660.)

**Cross references.** — Income and franchise taxes, tax check-off, "drug prevention", "children at risk," "Fund" and tax check-off" have meanings from this section, see § 47-1812.11b.

**Prior Codifications.** — 1981 Ed., § 47-4001.

**Legislative history of Law 8-246.** — Law 8-246, the "District of Columbia Drug Prevention and Children at Risk Check-Off Amendment Act of 1990," was introduced in Council and assigned Bill No. 8-561, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 4, 1990, and December 18, 1990, respectively. Signed by the Mayor on December 27, 1990, it was assigned Act No. 8-330 and transmitted to both Houses of Congress for its review.

**Legislative history of Law 10-56.** — Law 10-56, the "Child Abuse and Neglect Prevention Children's Trust Fund Act of 1993," was intro-

duced in Council and assigned Bill No. 10-114, which was referred to the Committee on Human Services. The Bill was adopted on first and second readings on July 13, 1993 and September 21, 1993, respectively. Signed by the Mayor on October 1, 1993, it was assigned Act No. 10-109 and transmitted to both Houses of Congress for its review. D.C. Law 10-56 became effective on November 20, 1993.

**Legislative history of Law 12-236.** — Law 12-236, the "Drug Prevention and Children at Risk Tax Check-Off, Tax Initiative Delay, and Attorney License Fee Act of 1998," was introduced in Council and assigned Bill No. 12-706, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 10, 1998, and December 1, 1998, respectively. Signed by the Mayor on December 21, 1998, it was assigned Act No. 12-561 and transmitted to both Houses of Congress for its review. D.C. Law 12-236 became effective on April 20, 1999.



# § 47-4002. Establishment of the Public Fund for Drug Prevention and Children at Risk; duties.

(a) There is established a Public Fund for Drug Prevention and Children at Risk.

(b) The Children and Youth Investment Trust Corporation ("CYITC") shall receive, as a grant, all monies that are generated by the tax check-off system established in § 47-1812.11b. The fund shall be administered by the CYITC and shall be used to support purposes consistent with the stated purpose of the fund. The CYITC shall submit an annual financial report to the Mayor and Council of the District of Columbia no later than March 1st of each year.

(c) The CYITC shall publicize the availability of a tax check-off for drug prevention and children at risk. The Mayor shall assist the Fund to insure public education regarding the tax check-off and District taxpayer participation in the tax check-off.

(d) The CYITC shall take any necessary step to encourage the federal government to match the funds generated through the tax check-off.

(e) The CYITC may recommend other means to generate funds for drug prevention and children at risk.

(f) The CYITC shall encourage collaborative efforts and foster a public-private partnership in the development of drug prevention and children at risk programs.

(g) The CYITC shall advise the Mayor and the Council on action needed to insure effective programming for drug prevention and children at risk in the District.

(h) The funds generated through the tax check-off shall be invested by CYITC in bonds, treasury notes, other evidences of indebtedness of the United States, or federally insured commercial banks of the United States that are in compliance with § 2-311.01 et seq.

(Mar. 8, 1991, D.C. Law 8-246, § 3, 38 DCR 371; Nov. 20, 1993, D.C. Law 10-56, § 10, 40 DCR 7222; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Apr. 20, 1999, D.C. Law 12-236, § 2(e), 46 DCR 660; Aug. 16, 2008, D.C. Law 17-219, § 5010(a), 55 DCR 7598.)

**Cross references.** — Income and franchise taxes, voluntary tax check-off for donation to Fund, see § 47-1812.11b.

**Section references.** — This section is referred to in § 47-4001.

**Prior Codifications.** — 1981 Ed., § 47-4002.

**Effect of amendments.** — D.C. Law 17-219 rewrote subsec. (b); in subsecs. (c) to (g), substituted "The CYITC" for "The Fund"; and, in subsec. (h), substituted "by CYITC" for "by the Fund". Prior to amendment, subsec. (b) read as follows: "(b) The Fund shall distribute the funds that are generated by the tax check-off system established in § 47-1812.11b. By April 1, 1992, the Fund shall publish guidelines by which a District nonprofit organization or gov-

ernment agency may apply for funds. Funds shall be distributed on an annual basis as determined by the Fund. By September 1, 1992, the Fund shall publish an estimated projection of funds generated by the tax check-off based on the income tax returns filed by April 15, 1992. The Fund shall submit an annual financial report to the Mayor and Council of the District of Columbia ('Council') no later than March 1st of each year."

**Emergency legislation.** — For temporary amendment of section, see § 2(c) of the Drug Prevention and Children at Risk Tax Check-off Congressional Review Emergency Act of 1998 (D.C. Act 12-522, December 9, 1998, 45 DCR 9179), and § 2(c) of the Drug Prevention and Children at Risk Tax Check-off Congressional

Review Emergency Act of 1999 (D.C. Act 13-30, March 15, 1999, 46 DCR 2991).

**Legislative history of Law 8-246.** — For legislative history of D.C. Law 8-246, see Historical and Statutory Notes following § 47-4001.

**Legislative history of Law 10-56.** — For legislative history of D.C. Law 10-56, see Historical and Statutory Notes following § 47-4001.

**Legislative history of Law 12-236.** — For legislative history of D.C. Law 12-236, see Historical and Statutory Notes following § 47-4001.

**Legislative history of Law 17-219.** — For Law 17-219, see notes following § 47-318.05a.

**Short title.** — Short title: Section 5009 of D.C. Law 17-219 provided that subtitle E of title V of the act may be cited as the "Support for At-Risk Youth Act of 2008".

## § 47-4003. Fund qualifications; terms of office; compensation. [Repealed].

Repealed.

(Mar. 8, 1991, D.C. Law 8-246, § 4, 38 DCR 371; Nov. 20, 1993, D.C. Law 10-56, § 10, 40 DCR 7222; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 16, 2008, D.C. Law 17-219, § 5010(b), 55 DCR 7598.)

**Prior Codifications.** — 1981 Ed., § 47-4003.

**Legislative history of Law 8-246.** — For legislative history of D.C. Law 8-246, see Historical and Statutory Notes following § 47-4001.

**Legislative history of Law 10-56.** — For legislative history of D.C. Law 10-56, see Historical and Statutory Notes following § 47-4001.

**Legislative history of Law 17-219.** — For Law 17-219, see notes following § 47-318.05a.

## § 47-4004. Rules of procedure; contributions. [Repealed].

Repealed.

(Mar. 8, 1991, D.C. Law 8-246, § 5, 38 DCR 371; Nov. 20, 1993, D.C. Law 10-56, § 10, 40 DCR 7222; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575; Aug. 16, 2008, D.C. Law 17-219, § 5010(b), 55 DCR 7598.)

**Prior Codifications.** — 1981 Ed., § 47-4004.

**Legislative history of Law 8-246.** — For legislative history of D.C. Law 8-246, see Historical and Statutory Notes following § 47-4001.

**Legislative history of Law 10-56.** — For legislative history of D.C. Law 10-56, see Historical and Statutory Notes following § 47-4001.

**Legislative history of Law 17-219.** — For Law 17-219, see notes following § 47-318.05a.

## § 47-4005. Rules.

(a) The Mayor shall, pursuant to subchapter I of Chapter 5 of Title 2, issue rules to implement the provisions of this chapter.

(b) The rules shall include standards for:

(1) The transfer of funds to the Fund; and

(2) The reimbursement of costs incurred by the Mayor in the collection, processing, accounting, or disbursement of the funds generated by the tax check-off.

(Mar. 8, 1991, D.C. Law 8-246, § 7, 38 DCR 371; Nov. 20, 1993, D.C. Law 10-56, § 10, 40 DCR 7222; enacted, Apr. 9, 1997, D.C. Law 11-254, § 2, 44 DCR 1575.)



**Prior Codifications.** — 1981 Ed., § 47-4005.

**Effect of amendments.** — D.C. Law 14-213, in the table of contents of this chapter, substituted “§ 47-4108.01. Special agents for the Office of Tax and Revenue.” for “§ 47-4108a. Special agents for the Office of Tax and Revenue.”

**Legislative history of Law 8-246.** — For

legislative history of D.C. Law 8-246, see Historical and Statutory Notes following § 47-4001.

**Legislative history of Law 10-56.** — For legislative history of D.C. Law 10-56, see Historical and Statutory Notes following § 47-4001.

**Legislative history of Law 14-213.** — For Law 14-213, see notes following § 47-820.

CHAPTER 41. CRIMINAL PROVISIONS.

Sec.

- 47-4101. Attempt to evade or defeat tax.
- 47-4102. Failure to collect or pay over tax.
- 47-4103. Failure to pay tax, make return, keep records, or supply information.
- 47-4104. Fraudulent statements or failure to make statements to employee.
- 47-4105. Fraudulent withholding information or failure to supply information to employer.
- 47-4106. Fraud and false statements.

Sec.

- 47-4107. Attempt to interfere with administration of District of Columbia revenue laws.
- 47-4108. Periods of limitation on criminal prosecutions.
- 47-4108.01. Special agents for the Office of Tax and Revenue.
- 47-4109. Construction.
- 47-4110. Mayor's regulatory authority.
- 47-4111. Rewards for informants.

§ 47-4101. Attempt to evade or defeat tax.

(a) A person who willfully attempts in any manner to evade or defeat a tax, or the payment thereof, imposed by this title shall, in addition to other penalties provided by law, be guilty of a felony if the tax evaded or attempted to be evaded exceeds \$10,000, and, upon conviction thereof, shall be fined not more than \$10,000 or 3 times the amount of the tax evaded or attempted to be evaded, whichever is greater, or imprisoned not more than 10 years, or both, together with the costs of prosecution.

(b) A person who willfully attempts in any manner to evade or defeat a tax, or the payment thereof, imposed by this title shall, in addition to other penalties provided by law, be guilty of a misdemeanor if the tax evaded or attempted to be evaded is \$10,000 or less, and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned not more than 180 days, or both, together with costs of prosecution. All prosecutions under this subsection shall be brought in the Superior Court of the District of Columbia on information by the Attorney General for the District of Columbia in the name of the District. The amount of any taxes that were evaded or attempted to be evaded pursuant to a single scheme or systematic course of conduct in violation of this section may be aggregated to determine the grade of the offense and the sentence for the offense.

(Oct. 4, 2000, D.C. Law 13-204, § 2(b), 47 DCR 5799; Apr. 13, 2005, D.C. Law 15-354, § 73(n)(1), 52 DCR 2638.)

**Effect of amendments.** — D.C. Law 15-354 substituted "Attorney General for the District of Columbia" for "Corporation Counsel".

**Legislative history of Law 13-204.** — Law 13-204, the "Criminal Tax Reorganization Act of 2000", was introduced in Council and assigned Bill No. 13-299, which was referred to the Committee on the Judiciary. The Bill was

adopted on first and second readings on May 3, 2000, and June 6, 2000, respectively. Signed by the Mayor on June 22, 2000, it was assigned Act No. 13-359 and transmitted to both Houses of Congress for its review. D.C. Law 13-204 became effective on October 4, 2000.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

§ 47-4102. Failure to collect or pay over tax.

(a) A person required under this title to collect, account for, or pay over tax imposed by this title who willfully fails to collect or truthfully account for and pay over the tax shall, in addition to other penalties provided by law, be guilty of a felony if the amount to be collected or accounted for and paid over exceeds



\$10,000, and, upon conviction thereof, shall be fined not more than \$10,000 or 3 times the amount of the tax evaded or attempted to be evaded, whichever is greater, or imprisoned not more than 10 years, or both, together with the costs of prosecution.

(b) A person required under this title to collect or account for and pay over a tax imposed by this title who fails to collect or truthfully account for and pay over the tax shall, in addition to other penalties provided by law, be guilty of a misdemeanor if the amount to be collected or accounted for and paid over is \$10,000 or less, and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned not more than 180 days, or both, together with costs of prosecution. All prosecutions under this subsection shall be brought in the Superior Court of the District of Columbia on information by the Attorney General for the District of Columbia in the name of the District. The amount of any taxes that were not collected, truthfully accounted for, or paid over under a single scheme or systematic course of conduct in violation of this section may be aggregated in determining the grade of the offense and the sentence for the offense.

(Oct. 4, 2000, D.C. Law 13-204, § 2(b), 47 DCR 5799; Apr. 13, 2005, D.C. Law 15-354, § 73(n)(2), 52 DCR 2638.)

**Effect of amendments.** — D.C. Law 15-354 substituted “Attorney General for the District of Columbia” for “Corporation Counsel”.

**Legislative history of Law 13-204.** — For Law 13-204, see notes following § 47-4101.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

### **§ 47-4103. Failure to pay tax, make return, keep records, or supply information.**

(a) A person required under this title to pay a tax or estimated tax, or required by this title, or by regulations made under authority thereof, to make a return, keep any records, or supply any information, who willfully fails to pay the tax, pay the estimated tax, make the return, keep the records, or supply the information, at the time required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned not more than 180 days, or both, together with costs of prosecution.

(b) A person required under this title to pay a tax or estimated tax, make a return, keep any records, or supply any information, who fails to pay the tax, pay the estimated tax, make the return, keep the records, or supply the information, at the time required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$3,000, or imprisoned not more than 180 days, or both, together with costs of prosecution.

(c) All prosecutions under this section shall be brought in the Superior Court of the District of Columbia on information by the Attorney General for the District of Columbia in the name of the District.

(Oct. 4, 2000, D.C. Law 13-204, § 2(b), 47 DCR 5799; Apr. 13, 2005, D.C. Law 15-354, § 73(n)(3), 52 DCR 2638.)

**Effect of amendments.** — D.C. Law 15-354 substituted “Attorney General for the District of Columbia” for “Corporation Counsel”.

**Legislative history of Law 13-204.** — For Law 13-204, see notes following § 47-4101.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

## CASE NOTES

### ANALYSIS

Multiple counts.

Willfulness.

### Multiple counts.

Multiple counts in information against defendant charged with failing to make income tax returns to District of Columbia were not impermissibly duplicitous, since governing District of Columbia statute disjunctively listed ways in which individual could commit crime. *United States v. Gray*, 723 F.Supp.2d 82, 2010 U.S. Dist. LEXIS 69551 (2010).

### Willfulness.

Government failed to show, by preponderance of the evidence on probation revocation motion, that defendant's failure to timely file his tax returns was willful, as element of al-

leged new criminal offenses of failing to file timely tax returns, where prosecutor called no witnesses at revocation hearing, but, rather, merely incorrectly maintained that willfulness was not an element of the offenses of failure to file. *United States v. Barry*, 616 F.Supp.2d 102, 2009 U.S. Dist. LEXIS 43844 (2009).

Defendant was entitled to challenge Government's evidence on charges of willful failure to file sales tax returns that were dismissed, for purposes of calculating penalties in sentencing for non-willful failure to file returns, despite language in plea agreement that she could not contest penalties on grounds that they were “sought in counts which were dismissed”; defendant retained right to contest penalties, and trial court was required to conduct full and fair contested hearing relevant to such determination. *Stedman v. District of Columbia*, 12 A.3d 1156, 2011 D.C. App. LEXIS 27 (2011).

## § 47-4104. Fraudulent statements or failure to make statements to employee.

A person required under this title, or under regulations made under authority thereof, to furnish a statement or supply information to an employee, who willfully furnishes a false or fraudulent statement or false or fraudulent information, or who willfully fails to furnish a statement or supply information to an employee in the manner and at the time prescribed under this title, or under regulations made under authority thereof, shall, in addition to other penalties provided by law, be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$3,000, or imprisoned not more than 180 days, or both, together with costs of prosecution. All prosecutions under this section shall be brought in the Superior Court of the District of Columbia on information by the Attorney General for the District of Columbia in the name of the District.

(Oct. 4, 2000, D.C. Law 13-204, § 2(b), 47 DCR 5799; Apr. 13, 2005, D.C. Law 15-354, § 73(n)(4), 52 DCR 2638.)

**Effect of amendments.** — D.C. Law 15-354 substituted “Attorney General for the District of Columbia” for “Corporation Counsel”.

**Legislative history of Law 13-204.** — For Law 13-204, see notes following § 47-4101.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.



### § 47-4105. Fraudulent withholding information or failure to supply information to employer.

A person required under this title, or under regulations made under authority thereof, to furnish withholding information or supply information to an employer, who willfully furnishes false or fraudulent withholding information or other information, or willfully fails to furnish withholding information or other information to an employer in the manner and at the time prescribed under this title, or under regulations made under authority thereof, shall, in addition to other penalties provided by law, be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$3,000, or imprisoned not more than 180 days, or both, together with costs of prosecution. All prosecutions under this section shall be brought in the Superior Court of the District of Columbia on information by the Attorney General for the District of Columbia in the name of the District.

(Oct. 4, 2000, D.C. Law 13-204, § 2(b), 47 DCR 5799; Apr. 13, 2005, D.C. Law 15-354, § 73(n)(5), 52 DCR 2638.)

**Effect of amendments.** — D.C. Law 15-354 substituted “Attorney General for the District of Columbia” for “Corporation Counsel”.

**Legislative history of Law 13-204.** — For Law 13-204, see notes following § 47-4101.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

### § 47-4106. Fraud and false statements.

(a) A person who willfully makes and subscribes, delivers, or discloses a return, statement, list, account, or other document required under this title, or under regulations made under authority thereof, which he or she does not believe to be true and correct as to every material matter, shall, in addition to other penalties provided by law, be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned not more than 180 days, or both, together with costs of prosecution.

(b) A person who willfully aids or assists in, procures, counsels, or advises the preparation or presentation under, or in connection with, a matter arising under this title, or under regulations made under authority thereof, of a return, affidavit, claim, list, account, or other document, which is fraudulent or is false as to any material matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, list, account, or document, shall, in addition to other penalties provided by law, be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned not more than 180 days, or both, together with costs of prosecution.

(c) A person who willfully makes and subscribes, delivers, or discloses a return, statement, list, account, or other document required under this title, or under regulations made under authority thereof, which he or she does not believe to be true and correct as to every matter, shall, in addition to other penalties provided by law, be guilty of a misdemeanor, and, upon conviction

thereof, shall be fined not more than \$3,000, or imprisoned not more than 180 days, or both, together with costs of prosecution.

(d) A person who willfully aids or assists in, procures, counsels, or advises the preparation or presentation under, or in connection with, any matter arising under this title, or under regulations made under authority thereof, of a return, affidavit, claim, list, account, or other document, which is fraudulent or is false as to any matter, whether or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, list, account, or document, shall, in addition to other penalties provided by law, be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$3,000, or imprisoned not more than 180 days, or both, together with costs of prosecution.

(e) All prosecutions under this section shall be brought in the Superior Court of the District of Columbia on information by the Attorney General for the District of Columbia in the name of the District.

(Oct. 4, 2000, D.C. Law 13-204, § 2(b), 47 DCR 5799; June 12, 2003, D.C. Law 14-310, § 11(c), 50 DCR 1092; Apr. 13, 2005, D.C. Law 15-354, § 73(n)(6), 52 DCR 2638.)

**Effect of amendments.** — D.C. Law 14-310, in subsec. (c), deleted “material” preceding “matter”.

D.C. Law 15-354 substituted “Attorney General for the District of Columbia” for “Corporation Counsel”.

**Legislative history of Law 13-204.** — For Law 13-204, see notes following § 47-4101.

**Legislative history of Law 14-310.** — Law 14-310, the “Criminal Code and Miscellaneous Technical Amendments Act of 2002”, was intro-

duced in Council and assigned Bill No. 14-954, which was referred to the Committee on Whole. The Bill was adopted on first and second readings on December 3, 2002, and December 17, 2002, respectively. Signed by the Mayor on January 22, 2003, it was assigned Act No. 14-622 and transmitted to both Houses of Congress for its review. D.C. Law 14-310 became effective on June 12, 2003.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

## § 47-4107. Attempt to interfere with administration of District of Columbia revenue laws.

(a) A person who attempts to influence, intimidate, or impede an officer or employee of the District of Columbia acting in an official capacity under this title, or under regulations made under authority thereof, or in any other way corruptly or by force or threats of force (including a threatening letter or communication) obstructs or impedes, or attempts to obstruct or impede, the due administration of this title, regardless of the existence of an investigation brought under this title, shall, in addition to other penalties provided by law, be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned not more than 180 days, or both, together with costs of prosecution.

(b) A person who forcibly rescues or causes to be rescued any property, or attempts to do so, after it has been seized under this title, or under regulations made under authority thereof, shall, in addition to other penalties provided by law, be guilty of a misdemeanor, and, upon conviction thereof, shall be fined not more than \$5,000, or imprisoned not more than 180 days, or both, together with costs of prosecution.



(c) All prosecutions under this section shall be brought in the Superior Court of the District of Columbia on information by the Attorney General for the District of Columbia in the name of the District.

(Oct. 4, 2000, D.C. Law 13-204, § 2(b), 47 DCR 5799; Apr. 13, 2005, D.C. Law 15-354, § 73(n)(7), 52 DCR 2638.)

**Effect of amendments.** — D.C. Law 15-354 substituted “Attorney General for the District of Columbia” for “Corporation Counsel”.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

**Legislative history of Law 13-204.** — For Law 13-204, see notes following § 47-4101.

## § 47-4108. Periods of limitation on criminal prosecutions.

Notwithstanding any other period of limitation under law, no person shall be prosecuted, tried, or punished for an offense arising under this chapter unless the indictment is found or the information is instituted within 6 years after the latest of: the commission of the offense, the last action in furtherance of the offense, or the last action to conceal the offense.

(Oct. 4, 2000, D.C. Law 13-204, § 2(b), 47 DCR 5799.)

**Legislative history of Law 13-204.** — For Law 13-204, see notes following § 47-4101.

## § 47-4108.01. Special agents for the Office of Tax and Revenue.

An employee of the Office of Tax and Revenue who, as part of his or her official duties, conducts investigations of alleged misdemeanor and felony violations, shall possess the following authority while engaged in the performance of his or her official duties:

(1) To carry a firearm inside or outside of the District of Columbia in conformance with state and local laws; provided, that the employee has completed a course of training in the safe handling of firearms and the use of deadly force and is qualified to use a firearm according to the standards applicable to officers of the Metropolitan Police Department. The employee shall not carry a firearm in the course of official duties unless it is authorized in writing by the Deputy Chief Financial Officer for the Office of Tax and Revenue. The Deputy Chief Financial Officer, in consultation with the Metropolitan Police Department, shall issue written guidelines pertaining to the authority to carry firearms, the appropriate use of firearms, firearms issuance and security, and the use of force;

(2) To make an arrest without a warrant if the employee has probable cause to believe that a felony violation of a federal or District of Columbia statute is being committed in his or her presence; provided, that the arrest shall be made while the employee is engaged in the performance of his or her official duties within the District of Columbia or, subject to state and local laws, outside of the District of Columbia; and

(3) To serve as an affiant for, to apply to an appropriate judicial officer for,

or execute, a search warrant under the authority of the District of Columbia or the United States for the search of premises or the seizure of evidence upon the probable cause.

(June 9, 2001, D.C. Law 13-305, § 402(c), 48 DCR 334.; Oct. 19, 2002, D.C. Law 14-213, § 33(z), 49 DCR 8140.)

**Effect of amendments.** — D.C. Law 14-213, in the section heading, substituted “§ 47-4108.01. Special agents for the Office of Tax and Revenue.” for “§ 47-4108a. Special agents for the Office of Tax and Revenue.”

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-901.

**Legislative history of Law 14-213.** — For Law 14-213, see notes following § 47-820.

## § 47-4109. Construction.

(a) For purposes of this chapter, the term “person” includes an officer or employee of a corporation or a member or employee of a partnership or association, who as an officer, employee, or member, is under a duty to perform the act in respect to which the violation occurs.

(b) The provisions of this chapter may be construed, to the extent applicable, with reference to analogous provisions contained in sections 7201, 7202, 7203, 7204, 7205, 7206, 7212, and 7215 of the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 1 et seq.).

(Oct. 4, 2000, D.C. Law 13-204, § 2(b), 47 DCR 5799.)

**Legislative history of Law 13-204.** — For Law 13-204, see notes following § 47-4101.

## § 47-4110. Mayor’s regulatory authority.

The Mayor may promulgate regulations as may be necessary to carry out the purposes of this chapter.

(Oct. 4, 2000, D.C. Law 13-204, § 2(b), 47 DCR 5799.)

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 12(fff) of Tax Clarity and Recorder of Deeds Temporary Act of 2002 (D.C. Law 14-191, October 5, 2002, law notification 49 DCR 9549).

For temporary (225 day) amendment of section, see § 12(fff) of Tax Clarity and Related Amendments Temporary Act of 2003 (D.C. Law 14-228, March 23, 2003, law notification 50 DCR 2741).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 12(eee) of Tax Clarity and Recorder of Deeds Emergency

Act of 2002 (D.C. Act 14-381, June 6, 2002, 49 DCR 5674).

For temporary (90 day) amendment of section, see § 12(fff) of Tax Clarity and Related Amendments Emergency Act of 2002 (D.C. Act 14-456, July 23, 2002, 49 DCR 8107).

For temporary (90 day) amendment of section, see § 12(fff) of Tax Clarity and Related Amendments Congressional Review Emergency Act of 2002 (D.C. Act 14-510, October 23, 2002, 49 DCR 10247).

**Legislative history of Law 13-204.** — For Law 13-204, see notes following § 47-4101.

## § 47-4111. Rewards for informants.

(a) If the expenses are not otherwise provided for by law, the Mayor may pay the expenses which he considers necessary for:

- (1) Detecting underpayments of tax; and



(2) Detecting and bringing to trial and punishment persons guilty of violating, or attempting to violate, the revenue provisions of Title 42 and this title.

(b) The amount payable under this section shall not exceed 10% of the proceeds, other than interest and penalties, collected by reason of the information obtained as a result of the payments. The proceeds collected shall be available for the payments.

(c) No present or former employee of the District whose job responsibilities include, or have included, tax administration or enforcement, or any person who is working, or has worked, for a contractor on a tax administration or enforcement project for the District government, shall be eligible for the rewards authorized in this section.

(c-1) For the purposes of this section, the term:

(1) "Collection" or "collected" means the actual receipt by or payment to the District of Columbia of a sum of money representing taxes, penalties, or interest or any combination thereof which has been finally determined as being owed to the District of Columbia or which has been paid pursuant to a settlement.

(2) "Revenue laws" means Title 42 and this title, any other tax or revenue law of the District of Columbia, and any rule or regulation adopted pursuant thereto.

(c-2) The Mayor may pay an amount which he or she may consider appropriate for information to achieve the purposes set forth in subsection (a)(1) or (a)(s) [*sic*] of this section. No person, in the absence of express authority from the Mayor, shall make an offer, promise, or contract, or otherwise bind the Mayor, with respect to such payments or the amount thereof.

(c-3) No person shall be eligible to file a claim for any monetary payment authorized by this section who:

(1) Was an officer or employee of the United States Department of the Treasury, the Office of Tax and Revenue, or any other state or local government department, agency, or office with similar functions, duties, or obligations at the time he or she came into possession of information relating to violations of the revenue laws, or at the time he or she divulged the information. Any other federal, District of Columbia, or other state or local government employee, or former employee, shall be eligible to file a claim for any payment authorized by this section if the information submitted came to his or her knowledge other than in the course of his or her duties, except as otherwise provided in this section;

(2) Was employed by, retained by, or appointed to represent any other person as an attorney or who was otherwise involved in an attorney-client privileged relationship with such other person at the time he or she came into possession of information relating to violations of a revenue law, or connivance at the same, by such other person;

(3) Was an executor, administrator, or other legal representative of a deceased person at the time he or she came into possession of information relating to violations of a revenue law by such deceased person; or

(4) Derived, either directly or indirectly, information relating to violations of a revenue law from a person ineligible to file a claim for any payment authorized by this section.

(d) The Mayor may promulgate regulations to carry out the purpose of this section.

(June 9, 2001, D.C. Law 13-305, § 402(b), 48 DCR 334; Oct. 19, 2002, D.C. Law 14-213, § 33(aa), 49 DCR 8140.)

**Effect of amendments.** — D.C. Law 14-213, in subsecs. (a)(2) and (c-1)(2), validated previously made technical corrections.

**Legislative history of Law 13-305.** — For Law 13-305, see notes following § 47-901.

**Legislative history of Law 14-213.** — For Law 14-213, see notes following § 47-820.



## CHAPTER 42. INTEREST AND PENALTIES.

*Subchapter I. Interest*

Sec.

47-4201. Interest on underpayments.

47-4202. Interest on overpayments.

*Subchapter II. Penalties*

47-4211. Imposition of accuracy-related penalty.

47-4212. Imposition of fraud penalty.

47-4213. Failure to file return or to pay tax.

47-4214. Underpayment of estimated tax by individuals.

47-4215. Underpayment of estimated tax by corporations, financial institu-

Sec.

tions, and unincorporated businesses.

47-4216. Frivolous returns.

47-4217. Tax return preparers; aiding and abetting by others.

47-4218. Penalties for Qualified High Technology Company.

*Subchapter III. Waiver and Abatement*

47-4221. Waiver of penalty — reasonable cause.

47-4222. Abatements — tax, interest, and penalty.

*Subchapter I. Interest.***§ 47-4201. Interest on underpayments.**

(a)(1) Unless otherwise provided in this title, if any amount of tax imposed by this title (whether required on a return or to be paid by stamp or by some method) is not paid on or before the last date prescribed for payment, interest on the unpaid amount, at the underpayment rate set forth in subsection (d) of this section, shall be paid for the period from the last date prescribed for payment to the date paid.

(A) The last date prescribed for payment shall be determined without regard to any extension of time for filing a return required under this title.

(B) In the case of taxes payable by stamp and in all other cases in which the last date for payment is not otherwise prescribed, the last date for payment shall be the date that the liability for the tax arises.

(b)(1) Except as provided under paragraphs (1) and (2) of this subsection, interest shall be imposed at the underpayment rate set forth in subsection (d) of this section on an assessable penalty or addition to the tax only:

(A) If the assessable penalty or addition to the tax is not paid within 21 calendar days after the date of notice and demand, and

(B) For the period from the date of the notice and demand to the date of payment.

(2) Interest shall be imposed at the underpayment rate set forth in subsection (d) of this section on an addition to tax imposed under §§ 47-4201, 47-4202, or 47-4203 [see § 47-4213] for the period which:

(A) Begins on the date of the return of the tax with respect to which the addition to tax imposed is required to be filed (including extensions); and

(B) Ends on the date of payment of the addition to tax.

(3) Interest shall not be imposed on an underpayment of estimated tax required to be paid under § 47-4215.

(c) Interest imposed under this section on an unpaid tax, assessable penalty, or addition to tax shall be paid upon notice and demand, and shall be assessed, collected, and paid in the same manner as a tax.

(d) The underpayment rate shall be as follows:

(1) 13% per year, simple interest, from January 1, 2001 to December 31, 2002;

(2) 10% per year, compounded daily, beginning January 1, 2003.

(June 9, 2001, D.C. Law 13-305, § 403(b), 48 DCR 334.)

**Legislative history of Law 13-305.** — Law 13-305, the “Tax Clarity Act of 2000,” was introduced in Council and assigned Bill No. 13-586, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 2, 2000, and November 8, 2000, respectively. Signed by the Mayor on December 13, 2000, it was assigned Act No. 13-501 and transmitted to both Houses of Congress for its review. D.C. Law 13-305 became effective on June 9, 2001.

**Editor’s notes.** — Section 410(b) of D.C. Law 13-305, as amended by section 36(b) of D.C. Law 14-213, provided: “Except as otherwise provided therein, sections 403 and 404 shall apply to taxes other than the real property tax imposed under Chapter 8 of Title 47, for all tax years or taxable periods beginning after December 31, 2000.”

## § 47-4202. Interest on overpayments.

(a) Unless otherwise provided in this title, interest shall be allowed and paid on an overpayment of a tax imposed by this title at the overpayment rate set forth in subsection (c) of this section.

(b) Interest shall be allowed and paid as follows:

(1) In the case of a refund, from the date of the overpayment to a date (to be determined by the Mayor) preceding the date of the refund check by not more than 60 days, whether or not the refund check is accepted by the taxpayer after tender of the check to the taxpayer. The acceptance of the check shall be without prejudice to any right of the taxpayer to contest the amount of the overpayment and interest thereon.

(2) In the case of a return filed on or before the last day prescribed for filing the return (determined with regard to extension), interest shall not be allowed or paid before:

(A) The 91st day after the due date of an individual income tax return required under Chapter 18 of this title; or

(B) The 181st day after the due date of any other return required under this title.

(3) In the case of a return filed after the last date prescribed for filing the return (determined with regard to extension), an amended return, or a claim for refund or credit, interest shall not be allowed or paid before:

(A) The 91st day after an individual income tax return or claim is filed under Chapter 18 of this title; or

(B) The 181st day after any other tax return or claim is filed under this title.

(4) If an adjustment initiated by the Mayor results in a refund of an overpayment, interest on the overpayment shall be computed from:

(A) The 91st day after the date of the adjustment to the date of the payment in the case of an individual income tax return filed under Chapter 18 of this title; or



(B) The 181st day after the date of the adjustment to the date of the payment in the case of any other return filed under this title.

(c) The overpayment rate is 6% per year simple interest.

(June 9, 2001, D.C. Law 13-305, § 403(b), 48 DCR 334.)

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4201.

## *Subchapter II. Penalties.*

### **§ 47-4211. Imposition of accuracy-related penalty.**

(a) For purposes of this section, the term:

(1) “Negligence” means a failure to make a reasonable attempt to comply with the provisions of this title or to exercise ordinary and reasonable care in the preparation of a tax return without the intent to defraud. A position with respect to an item is attributable to negligence if it lacks a reasonable basis. Negligence is indicated where:

(A) The taxpayer fails to include on an income tax return an amount of income shown on an information return;

(B) The taxpayer fails to make a reasonable attempt to ascertain the correctness of a deduction, credit, or exclusion on a return; or

(C) The taxpayer fails to keep adequate books and records or to substantiate items properly.

(2) “Gross valuation misstatement” means the reporting on any return for a tax imposed by this title of the value of a property or the adjusted basis of a property which is greater than or equal to 400%, or less than or equal to 25%, of the amount determined to be the correct amount of the valuation or adjusted basis.

(3)(A) “Substantial understatement of income tax” means, for a taxable year, an understatement made by taxpayer in filing an individual or estate tax return if the amount of the understatement for the taxable year exceeds the greater of:

(i) Ten percent of the tax required to be shown on the return for the taxable year; or

(ii) \$2,000.

(B) In the case of a taxpayer other than an individual or estate, subparagraph (A) of this paragraph shall be applied by substituting “\$4,000” for “\$2,000”.

(C)(i) For purposes of this section, the term “understatement” means the excess of the amount of tax required to be shown on a return less the tax shown on the return.

(ii) The amount of the understatement under sub-subparagraph (i) of this paragraph shall be reduced by the portion of the understatement which is attributable to:

(I) The tax treatment of an item by the taxpayer if there is or was substantial authority for the treatment; or

(II) An item if:

(aa) The relevant facts affecting the item's tax treatment are adequately disclosed in a statement attached to the return; and

(bb) There is a reasonable basis for the tax treatment of the item by the taxpayer.

(4) "Substantial valuation misstatement" means the reporting on any return for a tax imposed by this title of the value of a property or the adjusted basis of a property which is greater than or equal to 200%, or less than or equal to 50%, of the amount determined to be the correct amount of the valuation or adjusted basis.

(b)(1) There shall be added to a tax imposed by this title an amount equal to 20% of the portion of an underpayment which is attributable to one or more of the following:

(A) Negligence;

(B) A substantial understatement of income tax; or

(C) A substantial valuation misstatement.

(2) There shall be added to the tax imposed by this title an amount equal to 40% of the portion of an underpayment which is attributable to a gross valuation misstatement.

(c)(1) Subsection (b) of this section shall not apply to the portion of an underpayment on which a penalty is imposed under § 47-4212.

(2) No penalty shall be imposed under subsection (b) of this section by reason of a substantial valuation misstatement or a gross valuation misstatement unless the portion of the underpayment for the taxable year attributable to the substantial valuation misstatement exceeds \$5,000 (\$10,000 in the case of a corporation).

(June 9, 2001, D.C. Law 13-305, § 403(b), 48 DCR 334; Apr. 4, 2003, D.C. Law 14-282, § 11(xx), 50 DCR 896.)

**Effect of amendments.** — D.C. Law 14-282, in subsec. (a)(2), substituted "greater than or equal to 400%, or less than or equal to 25%, of" for "400% or more greater or less than"; and in subsec. (a)(4), substituted "greater than or equal to 200%, or less than or equal to 50%, of" for "200% or more greater or less than".

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 12(ggg) of Tax Clarity and Recorder of Deeds Temporary Act of 2002 (D.C. Law 14-191, October 5, 2002, law notification 49 DCR 9549).

For temporary (225 day) amendment of section, see § 12(ggg) of Tax Clarity and Related Amendments Temporary Act of 2003 (D.C. Law 14-228, March 23, 2003, law notification 50 DCR 2741).

**Emergency legislation.** — For temporary

(90 day) amendment of section, see § 12(ff) of Tax Clarity and Recorder of Deeds Emergency Act of 2002 (D.C. Act 14-381, June 6, 2002, 49 DCR 5674).

For temporary (90 day) amendment of section, see § 12(ggg) of Tax Clarity and Related Amendments Emergency Act of 2002 (D.C. Act 14-456, July 23, 2002, 49 DCR 8107).

For temporary (90 day) amendment of section, see § 12(ggg) of Tax Clarity and Related Amendments Congressional Review Emergency Act of 2002 (D.C. Act 14-510, October 23, 2002, 49 DCR 10247).

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4201.

**Legislative history of Law 14-282.** — For Law 14-282, see notes following § 47-902.

## § 47-4212. Imposition of fraud penalty.

(a) If a portion of an underpayment of tax required to be shown on a return is attributable to fraud, there shall be added to the tax imposed by this title an



amount equal to 75% of the portion of the underpayment which is attributable to fraud.

(b) If the Mayor establishes that a portion of an underpayment is attributable to fraud, the entire underpayment shall be deemed to be attributable to fraud, except with respect to any portion of the underpayment which the taxpayer establishes, by a preponderance of the evidence, is not attributable to fraud.

(c) In the case of a joint return, this section shall not apply with respect to a spouse (including a domestic partner who files under § 47-1805.01(f)) unless a portion of the underpayment is attributable to the fraud of the spouse (including a domestic partner who files under § 47-1805.01(f)).

(d) Fraud is indicated where a taxpayer willfully:

(1) Fails to pay a tax imposed by this title; or

(2) Attempts to evade or defeat in any way the tax or the payment thereof.

(June 9, 2001, D.C. Law 13-305, § 403(b), 48 DCR 334; Mar. 14, 2007, D.C. Law 16-292, § 2(f), 54 DCR 1080; Mar. 25, 2009, D.C. Law 17-353, § 168(b), 56 DCR 1117.)

**Effect of amendments.** — D.C. Law 16-292 substituted “spouse (including a domestic partner who files under § 47-1805.01(f))” for “spouse”.

D.C. Law 17-353 validated a previously made technical correction.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4201.

**Legislative history of Law 16-292.** — For Law 16-292, see notes following § 47-1801.04.

**Legislative history of Law 17-353.** — For Law 17-353, see notes following § 47-308.

## § 47-4213. Failure to file return or to pay tax.

(a)(1) In case of failure to file a return required by this title on the date prescribed (determined with regard to any extension of time for filing), unless it is shown that the failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount required to be shown as tax on the return 5% of the amount of the tax if the failure is for not more than one month, with an additional 5% for each additional month or fraction thereof during which the failure continues, not exceeding 25% in the aggregate. The amount of tax required to be shown on the return shall be reduced by the amount of the tax which is paid on or before the date prescribed for payment of the tax and by the amount of any credit against the tax which may be claimed on the return.

(2) In the case of a failure to pay the amount shown as tax on a return specified in paragraph (1) of this subsection on or before the date prescribed for payment of the tax (determined with regard to any extension of time for payment), unless it is shown that the failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount shown as tax on the return 5% of the amount of the tax if the failure is for not more than one month, with an additional 5% for each additional month or fraction thereof during which the failure continues, not exceeding 25% in the aggregate. For purposes of computing the addition for a month, the amount of tax shown on the return shall be reduced by the amount of the tax which is paid on or before the

beginning of the month and by the amount of any credit against the tax which may be claimed on the return.

(3) In the case of a failure to pay an amount in respect of a tax that is required to be shown on a return specified in paragraph (1) of this subsection which is not shown (including an assessment made under this title), within 30 calendar days from the date of notice and demand for payment, unless it is shown that the failure is due to reasonable cause and not due to willful neglect, there shall be added to the amount of tax stated in the notice and demand 5% of the amount of the tax if the failure is for not more than one month, with an additional 5% for each additional month or fraction thereof during which the failure continues, not exceeding 25% in the aggregate. For the purpose of computing the addition for a month, the amount of tax stated in the notice and demand shall be reduced by the amount of the tax which is paid before the beginning of the month.

(b) With respect to a return, the amount of the addition under subsection (a)(1) of this section shall be reduced by the amount of the addition under subsection (a)(2) of this section for any month (or fraction thereof) to which an addition to tax applies under both subsection (a)(1) and (2) of this section.

(c) This section shall not apply to a failure to pay an estimated tax required to be paid by this title.

(June 9, 2001, D.C. Law 13-305, § 403(b), 48 DCR 334.)

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4201.

## § 47-4214. Underpayment of estimated tax by individuals.

(a) An individual shall pay 4 installments of estimated tax on the dates as provided in § 47-1812.08(i)(4) in the amount provided under subsection (b) of this section.

(b)(1) The amount of each installment of estimated tax under subsection (b) of this section shall be the lesser of:

(A) The amount required under the annualized income method under paragraph (2) of this subsection, or

(B) Twenty-five percent of the lesser of:

(i) Ninety percent of the tax shown on the return for the taxable year (or, if no return is filed, 90% of the tax for the taxable year);

(ii)(I) Except as provided in sub-sub-subparagraph (II) of this sub-subparagraph, 100% of the tax shown on the return of the individual for the preceding taxable year if the individual filed a return for the preceding taxable year consisting of 12 months;

(II) For tax years beginning after December 31, 2011, 110% of the tax shown on the return of the individual for the preceding taxable year if the individual filed a return for the preceding taxable year consisting of 12 months; or

(iii)(I) Except as provided in sub-sub-subparagraph (II) of this sub-subparagraph, 100% of the tax computed on the basis of the facts shown on his



return for the preceding taxable year if the individual filed a return for the preceding taxable year consisting of 12 months.

(II) For tax years beginning after December 31, 2011, 110% of the tax computed on the basis of the facts shown on his return for the preceding taxable year if the individual filed a return for the preceding taxable year consisting of 12 months.

(2)(A) The required payments under the annualized income method shall be, on a cumulative basis, as follows:

(i) On the first installment date, 22.5% of the tax for the taxable year based upon the annualized income of the individual for the first 3 months of the taxable year;

(ii) On the second installment date, 45% of the tax for the taxable year based upon the annualized income of the individual for the first 5 months of the taxable year;

(iii) On the third installment date, 67.5% of the tax for the taxable year based upon the annualized income of the individual for the first 8 months of the taxable year; and

(iv) On the fourth installment date, 90% of the tax for the taxable year.

(B) The annualized income method shall not apply to individuals filing a return for part of a taxable year except under regulations as the Mayor may prescribe.

(c)(1) Except as otherwise provided in this section, in the case of an underpayment of estimated tax by an individual, there shall be added to the tax imposed under § 47-1806.03(a) an amount determined by applying the underpayment rate set forth in § 47-4201 to the amount of the underpayment for the period of the underpayment.

(2) For purposes of this subsection:

(A) The amount of the underpayment shall be the excess of the required installment, over the amount, if any, of the installment paid on or before the due date for the installment.

(B) The period of the underpayment shall run from the due date for the installment to the earlier of: (i) the 15th day of the 4th month following the close of the taxable year, or (ii) the date on which the amount of the underpayment is made; provided, that an underpayment which is unpaid during part of a month shall be considered to be paid at the end of the month.

(d) For purposes of this section:

(1) A payment of estimated tax shall be credited against unpaid required installments in the order in which the installments are required to be paid.

(2) The term "tax" means the tax imposed by § 47-1806.03, less the amount of credit allowed against the tax (other than the credit under § 47-1806.04(b) for withholding of wages).

(3) The amount of the credit allowed under § 47-1806.04(b) for withholding of wages shall be deemed a payment of estimated tax. An equal part of such amount shall be deemed paid on each due date for the payment of estimated tax for the taxable year unless the taxpayer establishes the dates on which all amounts were actually withheld, in which case the amounts withheld shall be

deemed payments of estimated tax on the dates on which such amounts were actually withheld.

(4) The amount of a refund of a prior year's tax applied against the tax during the taxable year shall be deemed a payment of estimated tax.

(e) An addition to tax shall not be imposed under subsection (c) of this section for a taxable year if:

(1) The tax shown on the return for the taxable year (or, if no return is filed, the tax), reduced by applicable credits and payments of estimated tax which are timely made, is less than \$100;

(2)(A) The individual did not have any liability for tax for the preceding taxable year; and

(B) The individual was a citizen or resident of the District of Columbia throughout the preceding taxable year;

(3) The Mayor determines that:

(A) The taxpayer (i) retired after having attained age 62, or (ii) developed a disability in the taxable year for which estimated payments were required to be made or in the taxable year preceding such taxable year; and

(B) The underpayment was due to reasonable cause and not to willful neglect;

(4) The Mayor determines that, by reason of casualty, disaster, or other unusual circumstances, the imposition of the addition to tax would be against equity and good conscience; or

(5) The taxpayer dies during the taxable year.

(June 9, 2001, D.C. Law 13-305, § 403(b), 48 DCR 334; Apr. 24, 2007, D.C. Law 16-305, § 73(i), 53 DCR 6198; Mar. 25, 2009, D.C. Law 17-353, § 172(e)(2), 56 DCR 1117; Sept. 14, 2011, D.C. Law 19-21, § 8062(a), 58 DCR 6226.)

**Effect of amendments.** — D.C. Law 16-305, in subsec. (e)(3)(A), substituted "having a disability" for "became disabled".

D.C. Law 17-353, in subsec. (e)(3)(A), substituted "developed a disability" for "having a disability".

D.C. Law 19-21 rewrote subsec. (b)(1)(B)(ii) and (iii), which formerly read:

"(ii) One hundred percent of the tax shown on the return of the individual for the preceding taxable year if the individual filed a return for the preceding taxable year consisting of 12 months; or

"(iii) One hundred percent of the tax computed on the basis of the facts shown on his return for the preceding taxable year if the individual filed a return for the preceding taxable year consisting of 12 months."

**Emergency legislation.** — For temporary (90 day) addition, see § 2 of Self-Assessing

Taxpayer Fairness in Notice Emergency Act of 2005 (D.C. Act 16-241, December 22, 2005, 53 DCR 262).

For temporary (90 day) amendment of section, see § 2 of Self-Assessing Taxpayer Fairness in Notice Emergency Act of 2005 (D.C. Act 16-241, December 22, 2005, 53 DCR 262).

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4201.

**Legislative history of Law 16-305.** — For Law 16-305, see notes following § 47-802.

**Legislative history of Law 17-353.** — For Law 17-353, see notes following § 47-308.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 47-305.02.

**Short title.** — Short title: Section 8061 of D.C. Law 19-21 provided that subtitle G of title VIII of the act may be cited as "Tax Penalty Safe Harbor Act of 2011".



**§ 47-4215. Underpayment of estimated tax by corporations, financial institutions, and unincorporated businesses.**

(a) A corporation, financial institution, or unincorporated business shall pay 4 installments of estimated tax as provided in § 47-1812.14 in the amount provided under subsection (b) of this section.

(b)(1) The amount of each installment of estimated tax under subsection (b) of this section shall be the lesser of[:]

(A) The amount required under the annualized income method under paragraph (2) of this subsection, or

(B) Twenty-five percent of the lesser of:

(i) Ninety percent of the tax shown on the return of the entity for the taxable year (or, if no return is filed, 100% of the tax for the taxable year); or

(ii)(I) Except as provided in sub-sub-subparagraph (II) of this sub-subparagraph, 100% of the tax shown on the return of the entity for the preceding taxable year if the individual filed a return for the preceding taxable year consisting of 12 months.

(II) For tax years beginning after December 31, 2011, 110% of the tax shown on the return of the entity for the preceding taxable year if the individual filed a return for the preceding taxable year consisting of 12 months.

(2)(A) The required payments under the annualized income method shall be, on a cumulative basis, as follows:

(i) On the first installment date, 22.5% of the tax for the taxable year based upon the annualized income of the entity for the first 3 months of the taxable year;

(ii) On the second installment date, 45% of the tax for the taxable year based upon the annualized income of the entity for the first 5 months of the taxable year;

(iii) On the third installment date, 67.5% of the tax for the taxable year based upon the annualized income of the entity for the first 8 months of the taxable year; and

(iv) On the fourth installment date, 90% of the tax for the taxable year based upon the annualized income of the entity for the first 9 months of taxable year.

(B) The annualized income method shall not apply to entities filing a return for part of a taxable year except under regulations as the Mayor may prescribe.

(c)(1) Except as otherwise provided in this section, in the case of an underpayment of estimated tax by a corporation, financial institution, or unincorporated business, there shall be added to the tax imposed under Chapter 18 of this title an amount determined by applying the underpayment rate set forth in § 47-4201 to the amount of the underpayment for the period of the underpayment.

(2) For purposes of this subsection:

(A) The amount of the underpayment shall be the excess of (i) the required installment, over (ii) the amount, if any, of the installment paid on or before the due date for the installment.

(B) The period of the underpayment shall run from the due date for the installment to the earlier of (i) the 15th day of the 3rd month following the close of the taxable year, or (ii) the date on which the amount of the underpayment is made; provided, that an underpayment which is unpaid during part of a month shall be considered to be paid at the end of the month.

(d) For purposes of this section:

(1) A payment of estimated tax shall be credited against unpaid required installments in the order in which the installments are required to be paid.

(2) The term "tax" means the tax imposed by § 47-1807.02 [§ 47-1808.02] or § 47-1808.03, less the amount of credit allowed against the tax (other than the credit with respect to payments of tax).

(3) The amount of a refund of a prior year's tax applied against the tax during the taxable year shall be deemed a payment of estimated tax.

(e) An addition to tax shall not be imposed under subsection (c) of this section for a taxable year if:

(1) The tax shown on the return for the taxable year (or, if no return is filed, the tax) reduced by applicable credits and estimated payments which are made timely, is less than \$1,000; or

(2)(A) The preceding taxable year was a taxable year of 12 months; and

(B) The entity did not have any liability for tax for the preceding taxable year.

(June 9, 2001, D.C. Law 13-305, § 403(b), 48 DCR 334; Apr. 4, 2003, D.C. Law 14-282, § 11(yy), 50 DCR 896; Sept. 14, 2011, D.C. Law 19-21, § 8062(b), 58 DCR 6226.)

**Effect of amendments.** — D.C. Law 14-282 rewrote subsec. (e)(1) which had read as follows: "(1) The tax shown on the return for the taxable year (or, if no return is filed, the tax) reduced by applicable credits and estimated payments which are made timely, is less than \$100; or"

D.C. Law 19-21 rewrote subsec. (b)(1)(B)(ii), which formerly read:

"(ii) One hundred percent of the tax shown on the return of the entity for the preceding taxable year if the individual filed a return for the preceding taxable year consisting of 12 months."

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 12(hhh) of Tax Clarity and Recorder of Deeds Temporary Act of 2002 (D.C. Law 14-191, October 5, 2002, law notification 49 DCR 9549).

For temporary (225 day) amendment of section, see § 12(hhh) of Tax Clarity and Related Amendments Temporary Act of 2003 (D.C. Law 14-228, March 23, 2003, law notification 50 DCR 2741).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 12(ggg) of

Tax Clarity and Recorder of Deeds Emergency Act of 2002 (D.C. Act 14-381, June 6, 2002, 49 DCR 5674).

For temporary (90 day) amendment of section, see § 12(hhh) of Tax Clarity and Related Amendments Emergency Act of 2002 (D.C. Act 14-456, July 23, 2002, 49 DCR 8107).

For temporary (90 day) amendment of section, see § 12(hhh) of Tax Clarity and Related Amendments Congressional Review Emergency Act of 2002 (D.C. Act 14-510, October 23, 2002, 49 DCR 10247).

For temporary (90 day) addition, see § 2 of Self-Assessing Taxpayer Fairness in Notice Emergency Act of 2005 (D.C. Act 16-241, December 22, 2005, 53 DCR 262).

For temporary (90 day) amendment of section, see § 2 of Self-Assessing Taxpayer Fairness in Notice Emergency Act of 2005 (D.C. Act 16-241, December 22, 2005, 53 DCR 262).

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4201.

**Legislative history of Law 14-282.** — For Law 14-282, see notes following § 47-902.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 47-305.02.



**§ 47-4216. Frivolous returns.**

(a) An individual shall pay a penalty of \$500 if:

(1) The individual files what purports to be a tax return but which:

(A) Does not contain information on which the substantial correctness of the self-assessment may be judged; or

(B) Contains information that on its face indicated that the self-assessment is substantially incorrect; and

(2) The conduct referred to in paragraph (1) of this subsection is due to:

(A) A position which is frivolous; or

(B) A desire (which appears on the purported return) to delay or impede the administration of the District of Columbia's tax laws.

(b) The penalty imposed by subsection (a) of this section shall be in addition to any other penalty provided by law.

(June 9, 2001, D.C. Law 13-305, § 403(b), 48 DCR 334.)

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4201.

**§ 47-4217. Tax return preparers; aiding and abetting by others.**

(a) For the purposes of this section, the term:

(1) "Tax return preparer" means a person who prepares for compensation, or who employs one or more persons to prepare for compensation, a return of tax imposed by this title or a claim for refund of tax imposed by this title. The preparation of a substantial portion of a return or claim for refund shall be deemed to be the preparation of the entire return or claim for refund. The term "tax return preparer" shall not mean a person who only:

(A) Furnishes typing, reproducing, or other mechanical assistance;

(B) Prepares a return or claim for refund of the employer (or an officer, partner, member, or employee of the employer) by whom the person is regularly and continuously employed; or

(C) Prepares, as a fiduciary, a return or claim for refund for a person.

(2) "Understatement of liability" means an understatement of the net amount due with respect to a tax imposed by this title or an overstatement of the net amount creditable or refundable with respect to the tax.

(b) A tax return preparer shall sign the return or claim for refund as a tax return preparer. A tax return preparer who fails to sign a return or claim for refund shall pay a penalty of \$50 for each unsigned return or claim for refund unless it is shown that the failure is due to reasonable cause.

(c) A tax return preparer shall pay a penalty of \$250 for each return or claim for refund prepared by the tax preparer which understates a taxpayer's liability if:

(1) A part of an understatement of liability with respect to a return or claim for refund was due to the tax treatment of an item for which there was not a realistic possibility of success on its merits;

(2) The tax return preparer knew or reasonably should have known of the tax treatment of the item; and

(3)(A) The relevant facts affecting the tax treatment of the item were not adequately disclosed in the return or claim for refund or in a statement attached to the return or claim for refund (or in a copy of the federal return which was filed with the return or claim for refund, if applicable); or

(B) The position was frivolous.

(d)(1) A tax return preparer shall pay a penalty of \$1,000 for each return or claim for refund prepared by the tax return preparer that understates a taxpayer's liability if a part of an understatement of liability with respect to a return or claim for refund was due to:

(A) A willful attempt in any manner to understate the liability for tax with respect to the return or claim for refund; or

(B) A reckless or intentional disregard of rules or regulations.

(2) The amount of the penalty payable by a person by reason of paragraph (1) of this subsection shall be reduced by the amount of the penalty paid by the person by reason of subsection (c) of this section.

(e)(1) Except as provided in paragraph (2) of this subsection, a person is subject to a penalty of \$1,000 if the person:

(A) Aids or assists in, procures, or advises with respect to, the preparation or presentation of a portion of a return, affidavit, claim for refund, or other document (for purposes of this paragraph, the term "procures" includes ordering or otherwise causing a subordinate to perform an act and knowing of, and not attempting to prevent, participation in the act by any other person (whether or not the person is a director, officer, employee, or agent of the taxpayer involved) over whose activities the person has direction, supervision, or control);

(B) Knows or has reason to believe that the portion will be used in connection with a material matter arising under a tax imposed by this title; and

(C) Knows that the portion would result in an understatement of the liability for tax of another person.

(2) If the return, affidavit, claim for refund, or other document relates to the tax liability of a corporation, the amount of the penalty imposed by this subsection shall be \$10,000.

(3) If a person is subject to a penalty under this subsection with respect to a document relating to a taxpayer for a taxable period (or where there is no taxable period, a taxable event), the person shall not be subject to a penalty under this subsection with respect to another document relating to the taxpayer for the taxable period (or event).

(4) This subsection shall apply whether or not the understatement is made with the knowledge or consent of the persons authorized or required to present the return, affidavit, claim for refund, or other document.

(5) For purposes of paragraph (1) of this subsection, a person furnishing typing, reproducing, or other mechanical assistance with respect to a document shall not be treated as having aided or assisted in the preparation of the document by reason of the assistance.



(6) The penalty imposed by this section shall be in addition to any penalty assessed under subsection (b) of this section.

(7) A penalty on a person shall not be assessed under subsection (c) of this section with respect to a return for which a penalty is imposed on the person under this subsection.

(f)(1) Assessment of any penalty under this section shall be governed by § 47-4312.

(2) Any assessment of a penalty that has become final pursuant to § 47-4312 shall be due and payable within 30 days after service of a final assessment by the Mayor or service of a final order by the Office of Administrative Hearings, as applicable.

(g) [Repealed].

(June 9, 2001, D.C. Law 13-305, § 403(b), 48 DCR 334; Dec. 7, 2004, D.C. Law 15-217, § 4(j), 51 DCR 9126.)

**Effect of amendments.** — D.C. Law 15-217, rewrote subsec. (f); and repealed subsec. (g).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(j) of Office of Administrative Hearings Establishment Emergency Amendment Act of 2004 (D.C. Act 15-513, August 2, 2004, 51 DCR 8976).

For temporary (90 day) amendment of sec-

tion, see § 3(j) of Office of Administrative Hearings Establishment Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-553, October 26, 2004, 51 DCR 10359).

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4201.

**Legislative history of Law 15-217.** — For Law 15-217, see notes following § 47-1528.

## § 47-4218. Penalties for Qualified High Technology Company.

A taxpayer certifying in good faith that it is a Qualified High Technology Company shall not be subject to any penalties under this chapter if it is determined that the taxpayer does not qualify as a Qualified High Technology Company.

(Apr. 3, 2001, D.C. Law 13-256, § 101(c)(2), 48 DCR 730.)

**Legislative history of Law 13-256.** — For Law 13-256, see notes under § 47-1817.01.

### *Subchapter III. Waiver and Abatement.*

## § 47-4221. Waiver of penalty — reasonable cause.

(a) A penalty shall not be imposed with respect to a portion of an underpayment if the taxpayer shows that there was reasonable cause for the underpayment and that the taxpayer acted in good faith.

(b) Relief for reasonable cause is available for the following penalties:

- (1) Accuracy-related penalty under § 47-4211;
- (2) Failure to pay penalty under § 47-4213;
- (3) Failure to file penalty under § 47-4213;
- (4) Return preparer penalties under § 47-4217;
- (5) Personal liability for failure to collect or pay tax under § 47-4491; and

(6) Failure to record timely a deed under § 47-1433.

(c) Reasonable cause generally exists if, based on all the facts and circumstances, the taxpayer exercises ordinary business care and prudence in determining his or her tax obligations, but was unable to comply with a prescribed duty within the prescribed time. Ordinary business care and prudence includes making provision for business obligations to be met when reasonably foreseeable events occur.

(June 9, 2001, D.C. Law 13-305, § 403(b), 48 DCR 334; Apr. 4, 2003, D.C. Law 14-282, § 11(zz), 50 DCR 896.)

**Effect of amendments.** — D.C. Law 14-282 made nonsubstantive changes in subsecs. (b)(4) and (b)(5); and added subsec. (b)(6).

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 12(iii) of Tax Clarity and Recorder of Deeds Temporary Act of 2002 (D.C. Law 14-191, October 5, 2002, law notification 49 DCR 9549).

For temporary (225 day) amendment of section, see § 12(iii) of Tax Clarity and Related Amendments Temporary Act of 2003 (D.C. Law 14-228, March 23, 2003, law notification 50 DCR 2741).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 12(hhh) of Tax Clarity and Recorder of Deeds Emer-

gency Act of 2002 (D.C. Act 14-381, June 6, 2002, 49 DCR 5674).

For temporary (90 day) amendment of section, see § 12(iii) of Tax Clarity and Related Amendments Emergency Act of 2002 (D.C. Act 14-456, July 23, 2002, 49 DCR 8107).

For temporary (90 day) amendment of section, see § 12(iii) of Tax Clarity and Related Amendments Congressional Review Emergency Act of 2002 (D.C. Act 14-510, October 23, 2002, 49 DCR 10247).

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4201.

**Legislative history of Law 14-282.** — For Law 14-282, see notes following § 47-902.

## § 47-4222. Abatements — tax, interest, and penalty.

(a) The Mayor may abate the unpaid portion of the assessment of a tax or a liability in respect of a tax upon a request in a form prescribed by the Mayor, which is:

- (1) Assessed after the expiration of the applicable period of limitation; or
- (2) Erroneously or illegally assessed, in whole or in part.

(b)(1) In the case of an assessment of interest on a deficiency attributable in whole or in part to an unreasonable error or delay by the Mayor, the Mayor may abate the assessment of all or a part of the interest. The Mayor may refuse to abate the assessment of interest if a significant aspect of the error or delay is attributable to the taxpayer involved.

(2) The Mayor shall abate the assessment of all interest on an erroneous refund under § 47-4201 until the date that demand for repayment is made, unless the taxpayer (or a related party) has in any way caused the erroneous refund.

(c)(1) The Mayor shall abate any portion of interest or penalty attributable to erroneous advice furnished to the taxpayer in writing by the Mayor.

(2) Paragraph (1) of this subsection shall apply only if:

- (A) The written advice was reasonably relied upon by the taxpayer; and
- (B) The portion of the penalty or addition to tax did not result from a failure by the taxpayer to provide adequate or accurate information.

(d)(1) For purposes of this subsection, the term:

(A) "Notice" means a document specifically stating the amount of the taxpayer's liability and the basis for the liability.



(B) "Abatement date" means the day after the expiration of the one-year period beginning on the later of: (i) the date on which the return is filed, or (ii) the due date of the return determined without regard to extensions.

(2) If an individual files a timely individual income tax return imposed by this title (determined with regard to extensions) and the Mayor does not provide a notice to the individual before the abatement date, the Mayor shall abate any interest or penalty for a failure relating to the return for the period (A) beginning on the abatement date, and (B) ending 21 days after the date on which the notice is provided by the Mayor.

(3) Paragraph (2) of this subsection shall not apply to:

(A) A penalty imposed by § 47-4213;

(B) Interest, penalty, an addition to tax, or an additional amount in a case involving fraud;

(C) Interest, penalty, an addition to tax, or an additional amount with respect to a tax liability shown on the return; or

(D) A criminal penalty.

(4) This subsection shall apply only to an individual income tax return.

(June 9, 2001, D.C. Law 13-305, § 403(b), 48 DCR 334; Apr. 4, 2003, D.C. Law 14-282, § 11(aaa), 50 DCR 896.)

**Effect of amendments.** — D.C. Law 14-282, in subsec. (d)(2), substituted "individual income tax return" for "return of tax" and substituted "individual" for "taxpayer"; and added subsec. (d)(4).

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see 12(jjj) of Tax Clarity and Recorder of Deeds Temporary Act of 2002 (D.C. Law 14-191, October 5, 2002, law notification 49 DCR 9549).

For temporary (225 day) amendment of section, see 12(jjj) of Tax Clarity and Related Amendments Temporary Act of 2003 (D.C. Law 14-228, March 23, 2003, law notification 50 DCR 2741).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 12(iii) of

Tax Clarity and Recorder of Deeds Emergency Act of 2002 (D.C. Act 14-381, June 6, 2002, 49 DCR 5674).

For temporary (90 day) amendment of section, see § 12(ijj) of Tax Clarity and Related Amendments Emergency Act of 2002 (D.C. Act 14-456, July 23, 2002, 49 DCR 8107).

For temporary (90 day) amendment of section, see § 12(jjj) of Tax Clarity and Related Amendments Congressional Review Emergency Act of 2002 (D.C. Act 14-510, October 23, 2002, 49 DCR 10247).

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4201.

**Legislative history of Law 14-282.** — For Law 14-282, see notes following § 47-902.

CHAPTER 43. ADMINISTRATION.

<i>Subchapter I. Limitations</i>	Sec.
Sec.	47-4311. Requirement to maintain books and records.
47-4301. Periods of limitation.	47-4312. Protest of assessment.
47-4302. Limitation on collection.	47-4313. Examinations of books and records.
47-4303. Suspension of running of period of limitation.	47-4314. Time and place of examination.
47-4304. Limitations on credit or refund.	
<i>Subchapter II. Summons Authority; Records; Protests</i>	
47-4310. Summons authority.	

*Subchapter I. Limitations.*

§ 47-4301. Periods of limitation.

(a) Unless otherwise provided in subsection (d) of this section, the amount of a tax imposed under this title shall be assessed within 3 years after the return was filed (whether or not the return was filed after the date due) or, if the tax is payable by stamp, at any time after the tax became due and before the expiration of 3 years after the date on which a part of the tax was paid. A proceeding in court without assessment for the collection of the tax shall not commence after the expiration of such period. For purposes of this chapter, the term “return” means the return of tax required to be filed by the taxpayer (and does not include a return of tax of a person from whom the taxpayer has received an item of income, gain, loss, deduction, or credit).

(b) For purposes of this section, a return filed before the last day prescribed by this title, or by regulations promulgated under this title for filing, shall be considered as filed on the last day.

(c) The execution of a return by the Mayor shall not start the running of the period of limitations on assessment and collection.

(d)(1) In the case of a (A) false or fraudulent return with the intent to evade tax, (B) willful attempt in any manner to defeat or evade tax imposed by this title, (C) failure to file a return, or (D) filing a real property tax exemption application, the tax may be assessed, or a proceeding in court for the collection of the tax may begin without assessment, at any time.

(2) In the case of a tax imposed by Chapter 18 of this title, if the taxpayer omits an amount properly includible in gross income which is in excess of 25% of the amount of gross income stated in the return, the tax may be assessed, or a proceeding in court for the collection of the tax may be begun without assessment, at any time within 6 years after the return was filed. In the case of a trade or business, the term “gross income” means the amount received or accrued from the sale of goods or services (if the amounts are required to be shown on the return) before diminution by the cost of the sales or services.

(3) In the case of a return not under Chapter 18 of this title, if the taxpayer omits from the return an amount of tax properly includible on the return which exceeds 25% of the amount of the tax reported on the return, the tax may be assessed, or a proceeding in court for the collection of the tax may



be begun without assessment, at any time within 6 years after the return is filed.

(e) If, before the expiration of the time prescribed in this section for the assessment of a tax imposed by this title, both the Mayor and the taxpayer have consented in writing to its assessment after such time, the tax may be assessed at any time before the expiration of the extended period. The period may be extended further by subsequent agreement in writing made before the expiration of an extended period.

(f) If the amount of taxable income for a taxable year (or portion of a taxable year) of a taxpayer as reported by the taxpayer, or his duly authorized agent, to the United States Department of Treasury for federal income tax purposes is changed or corrected by the Commissioner of Internal Revenue, by a court of the United States, or by a court of the District of Columbia, or if the amount of taxable income for a taxable year (or portion of a taxable year) of a taxpayer as reported by the taxpayer or his duly authorized agent, to the District of Columbia for District of Columbia income or franchise tax purposes is changed or corrected by a court of the United States or the District of Columbia, the taxpayer, or his duly authorized agent, shall, within 90 days after the change or correction is finally determined, report in writing the changed or corrected taxable income to the District of Columbia. The Mayor may, within 180 days from the date of the receipt of written notice from the taxpayer of the changed or corrected taxable income as finally determined, assess or reassess the amount of a tax imposed by this title; provided, that if the date of receipt by the District of Columbia of a notice from the taxpayer is more than 180 days before the expiration of the applicable period of limitation, the Mayor shall have until the expiration of the applicable period of limitation to assess or reassess the amount of the tax. Failure to report the changed or corrected taxable income as finally determined within the 90-day period shall suspend the running of the period of limitation for a period of 180 days after the date that the report from the taxpayer, or his duly authorized agent, is received by the District of Columbia.

(June 9, 2001, D.C. Law 13-305, § 404(b), 48 DCR 334; Apr. 4, 2003, D.C. Law 14-282, § 11(bbb), 50 DCR 896.)

**Effect of amendments.** — D.C. Law 14-282, in subsec. (d)(1), substituted “(C) failure to file a return; or (D) filing a real property tax exemption application” for “or (C) failure to file a return”.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see 12(kkk) of Tax Clarity and Recorder of Deeds Temporary Act of 2002 (D.C. Law 14-191, October 5, 2002, law notification 49 DCR 9549).

For temporary (225 day) amendment of section, see 12(kkk) of Tax Clarity and Related Amendments Temporary Act of 2003 (D.C. Law 14-228, March 23, 2003, law notification 50 DCR 2741).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 12(jjj) of

Tax Clarity and Recorder of Deeds Emergency Act of 2002 (D.C. Act 14-381, June 6, 2002, 49 DCR 5674).

For temporary (90 day) amendment of section, see § 12(kkk) of Tax Clarity and Related Amendments Emergency Act of 2002 (D.C. Act 14-456, July 23, 2002, 49 DCR 8107).

For temporary (90 day) amendment of section, see § 12(kkk) of Tax Clarity and Related Amendments Congressional Review Emergency Act of 2002 (D.C. Act 14-510, October 23, 2002, 49 DCR 10247).

**Legislative history of Law 13-305.** — Law 13-305, the “Tax Clarity Act of 2000,” was introduced in Council and assigned Bill No. 13-586, which was referred to the Committee on Finance and Revenue. The Bill was adopted

on first and second readings on October 2, 2000, and November 8, 2000, respectively. Signed by the Mayor on December 13, 2000, it was assigned Act No. 13-501 and transmitted to both Houses of Congress for its review. D.C. Law 13-305 became effective on June 9, 2001.

**Legislative history of Law 14-282.** — For Law 14-282, see notes following § 47-902.

**Editor's notes.** — Section 410(b) of D.C. Law 13-305, as amended by section 36(b) of D.C. Law 14-213, provided: "Except as otherwise provided therein, sections 403 and 404 shall apply to taxes other than the real property tax imposed under Chapter 8 of Title 47, for all tax years or taxable periods beginning after December 31, 2000."

## § 47-4302. Limitation on collection.

(a) If the assessment of a tax imposed by this title has been made within the applicable period of limitation, the tax may be collected by levy or by a proceeding in court, but only if the levy is made or the proceeding begun within 10 years after the assessment of the tax.

(b) If, before the expiration of the time prescribed in this section for the collection of a tax imposed by this title, both the Mayor and the taxpayer have consented in writing to its collection after such time, the tax may be collected at any time before the expiration of the extended period. The period may be extended further by subsequent agreement in writing made before the expiration of an extended period.

(June 9, 2001, D.C. Law 13-305, § 404(b), 48 DCR 334.)

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4301.

## § 47-4303. Suspension of running of period of limitation.

The running of the period of limitation provided in §§ 47-4301 and 47-4302 on the making of assessments or collection shall be suspended for the period during which the Mayor is prohibited from making the assessment or from collecting due to a proceeding in court, and for the period between the filing of a protest in the Office of Administrative Hearings pursuant to § 47-4312 and the issuance of a final order by the Office of Administrative Hearings, plus:

- (1) For assessment, 60 days thereafter; and
- (2) For collection, 6 months thereafter.

(June 9, 2001, D.C. Law 13-305, § 404(b), 48 DCR 334; Dec. 7, 2004, D.C. Law 15-217, § 4(k), 51 DCR 9126.)

**Effect of amendments.** — D.C. Law 15-217 substituted "court, and for the period between the filing of a protest in the Office of Administrative Hearings pursuant to § 47-4312 and the issuance of a final order by the Office of Administrative Hearings," for "court."

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(k) of Office of Administrative Hearings Establishment Emergency Amendment Act of 2004 (D.C. Act 15-513, August 2, 2004, 51 DCR 8976).

For temporary (90 day) amendment of section, see § 3(k) of Office of Administrative Hearings Establishment Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-553, October 26, 2004, 51 DCR 10359).

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4301.

**Legislative history of Law 15-217.** — For Law 15-217, see notes following § 47-1528.



**§ 47-4304. Limitations on credit or refund.**

(a) A credit or refund of an overpayment of a tax imposed by this title shall not be allowed unless the taxpayer files a claim within the later of 3 years from the due date of the return or 3 years from the date that the tax was paid.

(b) If, before the expiration of the period of limitation prescribed in subsection (a) of this section, both the Mayor and the taxpayer have consented in writing, the period of limitation may be extended. The period may be extended further by subsequent agreement in writing made before the expiration of the extended period.

(c) If the amount of taxable income for a taxable year (or portion of a taxable year) of a taxpayer as reported by the taxpayer, or his duly authorized agent, to the United States Department of the Treasury for federal income tax purposes is changed or corrected by the Commissioner of Internal Revenue, by a court of the United States, or by a court of the District of Columbia, or if the amount of taxable income for a taxable year (or portion of a taxable year) of a taxpayer as reported by the taxpayer, or his duly authorized agent, to the District of Columbia for District of Columbia income or franchise tax purposes is changed or corrected by a court of the United States or the District of Columbia, a claim for credit or refund shall not be allowed unless the taxpayer files a claim for refund or credit with respect to the correction or change in the amount of taxable income within 180 days after the date that the change or correction is made or ordered.

(d)(1) In the case of an individual, the running of the period of limitation specified in subsection (a) of this section shall be suspended during any period that the individual is financially disabled.

(2) For purposes of paragraph (1) of this subsection, an individual is “financially disabled” if the individual’s ability to receive and evaluate information effectively or to communicate decisions is impaired to such an extent that he or she lacks the capacity to manage some or all of his or her financial resources. An individual shall not be treated as financially disabled during any period that the individual’s spouse, domestic partner, or another person may act on behalf of the individual in financial matters.

(e) Notwithstanding subsection (a) of this section, there shall be no period of limitations if the taxpayer filed an application for a real property tax exemption on or before the date of recordation of the deed and paid the recordation tax.

(f) For the purposes of this section, the term “domestic partner” shall have the same meaning as provided in § 32-701(3).

(June 9, 2001, D.C. Law 13-305, § 404(b), 48 DCR 334; Apr. 4, 2003, D.C. Law 14-282, § 11(ccc), 50 DCR 896; Sept. 12, 2008, D.C. Law 17-231, § 41(p), 55 DCR 6758.)

**Effect of amendments.** — D.C. Law 14-282 added subsec. (e).

D.C. Law 17-231, in subsec. (d)(2), substituted “spouse, domestic partner,” for “spouse”; and added subsec. (f).

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see 12(III) of Tax Clarity and Recorder of Deeds Temporary Act of 2002 (D.C. Law 14-191, October 5, 2002, law notification 49 DCR 9549).

For temporary (225 day) amendment of section, see 12(III) of Tax Clarity and Related Amendments Temporary Act of 2003 (D.C. Law 14-228, March 23, 2003, law notification 50 DCR 2741).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 12(kkk) of Tax Clarity and Recorder of Deeds Emergency Act of 2002 (D.C. Act 14-381, June 6, 2002, 49 DCR 5674).

For temporary (90 day) amendment of section, see § 12(III) of Tax Clarity and Related Amendments Emergency Act of 2002 (D.C. Act 14-456, July 23, 2002, 49 DCR 8107).

For temporary (90 day) amendment of section, see § 12(III) of Tax Clarity and Related Amendments Congressional Review Emergency Act of 2002 (D.C. Act 14-510, October 23, 2002, 49 DCR 10247).

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4301.

**Legislative history of Law 14-282.** — For Law 14-282, see notes following § 47-902.

**Legislative history of Law 17-231.** — For Law 17-231, see notes following § 47-802.

## *Subchapter II. Summons Authority; Records; Protests.*

### § 47-4310. Summons authority.

(a) For the purpose of ascertaining the correctness of a return; making a return where none has been made; determining the liability of a person or real property for a tax imposed under this title; determining the liability at law or in equity of a transferee or fiduciary of a person for a tax under this title; collecting tax; or inquiring into an offense connected with the administration or enforcement of a law, the Mayor may:

(1) Summon any person to appear and produce all books, records, or other data which may be relevant or material to the inquiry;

(2) Summon any person to give testimony under oath as may be relevant or material to the inquiry;

(3) Summon any person to answer interrogatories under oath as may be relevant or material to the inquiry; and

(4) Administer oaths to a person summoned.

(b) A summons under this section shall be served by the Mayor or by a member of the Metropolitan Police Department in the same manner as a subpoena issued by the Superior Court of the District of Columbia.

(c) The Mayor may report to the Superior Court of the District of Columbia the failure of a person to obey a summons.

(d) The Superior Court of the District of Columbia may compel obedience of a summons under this section to the same extent as witnesses may be compelled to obey the subpoenas of the Court.

(June 9, 2001, D.C. Law 13-305, § 404(b), 48 DCR 334; Apr. 4, 2003, D.C. Law 14-282, § 11(ddd), 50 DCR 896.)

**Effect of amendments.** — D.C. Law 14-282, in subsec. (a), substituted “liability of a person or real property” for “liability of a person”.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see 12(mmm) of Tax Clarity and Recorder of Deeds Temporary Act of 2002 (D.C. Law 14-191, October 5, 2002, law notification 49 DCR 9549).

For temporary (225 day) amendment of sec-

tion, see 12(mmm) of Tax Clarity and Related Amendments Temporary Act of 2003 (D.C. Law 14-228, March 23, 2003, law notification 50 DCR 2741).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 12(III) of Tax Clarity and Recorder of Deeds Emergency Act of 2002 (D.C. Act 14-381, June 6, 2002, 49 DCR 5674).

For temporary (90 day) amendment of sec-



tion, see § 12(mmm) of Tax Clarity and Related Amendments Emergency Act of 2002 (D.C. Act 14-456, July 23, 2002, 49 DCR 8107).

For temporary (90 day) amendment of section, see § 12(mmm) of Tax Clarity and Related Amendments Congressional Review Emergency Act of 2002 (D.C. Act 14-510, October 23, 2002, 49 DCR 10247).

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4301.

**Legislative history of Law 14-282.** — For Law 14-282, see notes following § 47-902.

**Delegation of Authority.** — Delegation of Authority Pursuant to D.C. Code, 2001 Ed. § 47-4310 to the Director of the Office of Tax and Revenue, see Mayor's Order 2001-162, November 2, 2001 (48 DCR 10785).

## § 47-4311. Requirement to maintain books and records.

Every person who is liable for a tax imposed by this title and every owner of real property that is liable for a tax imposed by this title shall maintain sufficient books and records to determine liability for the tax.

(June 9, 2001, D.C. Law 13-305, § 404(b), 48 DCR 334; Mar. 2, 2007, D.C. Law 16-192, § 1062(b), 53 DCR 6899.)

**Effect of amendments.** — D.C. Law 16-192 rewrote the section which had read as follows: "Every person who is liable for a tax imposed by this title shall maintain sufficient books and records to determine liability for the tax."

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 1062(b) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) amendment of section, see § 1062(b) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) amendment of section, see § 1062(b) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4301.

**Legislative history of Law 16-192.** — For Law 16-192, see notes following § 47-2608.

**Short title.** — Short title: Section 1061 of D.C. Law 16-192 provided that subtitle F of title I of the act may be cited as the "Clarification of Authority to Examine Books and Records Act of 2006".

## § 47-4312. Protest of assessment.

(a) Unless otherwise provided in this title, before a final assessment of a deficiency, interest, or penalties against a person, the Mayor shall send the person a proposed assessment. No later than 30 days after the proposed assessment is sent, the person may file a protest with the Office of Administrative Hearings, and shall serve a copy on the Mayor. The protest shall explain why the deficiency, interest, and penalties should not be assessed.

(b) If the person fails to file a protest in a timely manner under subsection (a) of this section, the Mayor shall send the person a final assessment of the deficiency, interest, or penalties.

(c) If a protest is filed in a timely manner under subsection (a) of this section, the Mayor may not issue a final assessment of the deficiency, interest, or penalties, and the Office of Administrative Hearings shall decide, after providing an opportunity for a hearing, whether the deficiency, interest, or penalties are proper. Filing a protest shall be deemed to be an election that the Office of Administrative Hearings shall be the exclusive forum to adjudicate all challenges to the proposed assessment, and shall be deemed to be an irrevocable waiver of any right to adjudication of all such challenges in any other

forum. Nothing in this subsection limits the right of any person to judicial review pursuant to § 2-1831.16.

(d) Nothing in this section or in § 2-1831.03(b)(4) shall limit or preclude any person from appealing any assessment to the Superior Court of the District of Columbia pursuant to § 47-3303, or other applicable law, as an alternative to filing a protest with the Office of Administrative Hearings.

(e) Except with respect to the election of remedy and the waiver of rights required by subsection (c) of this section and by § 2-1831.03(j), a final order of the Office of Administrative Hearings in any matter in which a protest has been filed shall have the same effect as a final assessment of a deficiency, interest, or penalties, and the Mayor may undertake any lawful collection efforts for any amount that such final order determines is due from any person.

(f) By October 7, 2004, the Office of Tax and Revenue shall notify in writing any person who filed a timely protest of a proposed assessment with the Office of Tax and Revenue on or before September 30, 2004, of his or her right to file a request for a hearing with the Office of Administrative Hearings on or before November 1, 2004. If any such person does not file a timely request for a hearing pursuant to this subsection, the Mayor shall send the person a final assessment of any deficiency, interest, or penalties.

(June 9, 2001, D.C. Law 13-305, § 404(b), 48 DCR 334; Dec. 7, 2004, D.C. Law 15-217, § 4(l), 51 DCR 9126.)

**Effect of amendments.** — D.C. Law 15-217 rewrote the section.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(l) of Office of Administrative Hearings Establishment Emergency Amendment Act of 2004 (D.C. Act 15-513, August 2, 2004, 51 DCR 8976).

For temporary (90 day) amendment of section, see § 3(l) of Office of Administrative Hearings Establishment Congressional Review

Emergency Amendment Act of 2004 (D.C. Act 15-553, October 26, 2004, 51 DCR 10359).

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4301.

**Legislative history of Law 15-217.** — For Law 15-217, see notes following § 47-1528.

**Editor's notes.** — Section 5 of D.C. Law 15-217 provided that section 4 shall apply as of October 1, 2004.

## § 47-4313. Examinations of books and records.

For the purpose of ascertaining the correctness of any return required to be made by this title, making a return where none has been made, determining the liability of any person or real property for any District of Columbia tax (including any interest, additional amount, addition to the tax, or civil penalty) or the liability at law or equity of any transferee or fiduciary of any person in respect of any District of Columbia revenue tax, collecting any such liability, or inquiring into any offense connected with the administration or endorsement of the District of Columbia revenue law, the Mayor or any authorized officer or employee of the Office of Tax and Revenue may:

(1) Examine any books, papers, records, or other data which may be relevant or material to such inquiry; or

(2) Take such testimony of the person concerned, under oath, as may be relevant to such inquiry.

(Mar. 2, 2007, D.C. Law 16-192, § 1062(c), 53 DCR 6899.)



**Emergency legislation.** — For temporary (90 day) addition, see § 1062(c) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) addition, see § 1062(c) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) addition, see § 1062(c) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

**Legislative history of Law 16-192.** — For Law 16-192, see notes following § 47-2608.

## § 47-4314. Time and place of examination.

(a) The time and place of examination pursuant to § 47-4313 shall be fixed by the Mayor, or any authorized officer or employee of the Office of Tax and Revenue, and shall be reasonable under the circumstances. The time and place for an examination shall be presumed to be reasonable if it is scheduled:

(1) During a normally scheduled work day and normal business hours of the Office of Tax and Revenue; or

(2) Without regard to seasonal fluctuations in the businesses of particular taxpayers or their representatives.

(b)(1) The Mayor, or an authorized officer or employee of the Office of Tax and Revenue, shall determine whether an examination will be an office examination or a field examination.

(2)(A) An office examination of an individual shall take place at the Office of Tax and Revenue.

(B) A field examination shall take place at the location where the taxpayer's original books, records, and source documents pertinent to the examination are maintained, which determination shall be made by the Mayor or an authorized officer or employee of the Office of Tax and Revenue. In the case of a sole proprietorship or taxpayer entity, this will usually be the taxpayer's principal place of business.

(C) A taxpayer shall not be subjected to unnecessary examinations or investigations.

(Mar. 2, 2007, D.C. Law 16-192, § 1062(c), 53 DCR 6899.)

**Emergency legislation.** — For temporary (90 day) addition, see § 1062(c) of Fiscal Year 2007 Budget Support Emergency Act of 2006 (D.C. Act 16-477, August 8, 2006, 53 DCR 7068).

For temporary (90 day) addition, see § 1062(c) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2006 (D.C. Act 16-499, October 23, 2006, 53 DCR 8845).

For temporary (90 day) addition, see § 1062(c) of Fiscal Year 2007 Budget Support Congressional Review Emergency Act of 2007 (D.C. Act 17-1, January 16, 2007, 54 DCR 1165).

**Legislative history of Law 16-192.** — For Law 16-192, see notes following § 47-2608.

CHAPTER 44. COLLECTIONS.

*Subchapter I. General Provisions*

Sec.

- 47-4401. Payment of tax.
- 47-4402. Credit card or electronic payment of taxes.
- 47-4403. Closing agreements.
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*Subchapter II. Liens*

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*Subchapter IV. Jeopardy*

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- 47-4451. Jeopardy and termination.
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*Subchapter V. Bulk Sales*

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- 47-4477. Application of proceeds.
- 47-4478. Release of levy and return of property.
- 47-4479. Judgment for wrongful distraint.
- 47-4480. Liability for failure or refusal to surrender.
- 47-4481. Financial institutions, requests for information.

*Subchapter VII. Responsible Officer*

- 47-4491. Personal liability for failure to collect or pay tax.

*Subchapter I. General Provisions.*

§ 47-4401. Payment of tax.

Unless otherwise specified in this title, all taxes are due and payable on the due date or upon notice and demand for payment, and shall be collected by the Mayor.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334.)

**Legislative history of Law 13-305.** — Law 13-305, the “Tax Clarity Act of 2000,” was introduced in Council and assigned Bill No. 13-586, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 2, 2000, and November 8, 2000, respectively. Signed by the Mayor on December 13, 2000, it was assigned Act No. 13-501 and transmitted to both

Houses of Congress for its review. D.C. Law 13-305 became effective on June 9, 2001.

**Editor’s notes.** — Section 410(c) of D.C. Law 13-305 provided: “Except as otherwise provided therein, section 405 shall apply as of January 1, 2001 to taxes other than the real property tax imposed under Chapter 8 of Title 47.”



## § 47-4402. Credit card or electronic payment of taxes.

(a) For purposes of this section, “electronic funds transfer” means a transfer of funds, other than a transaction by check, draft, or similar paper instrument, that is initiated through an electronic terminal, telephone, or computer or magnetic tape for the purpose of ordering, instructing, or authorizing a financial institution to debit or credit an account. The term includes point of sale transfers, automated teller machine transfers, direct deposit or withdrawal of funds, transfers initiated by telephone, and transfers resulting from debit card transactions.

(b) The Mayor may accept payment of taxes by credit card or electronic funds transfer. The Mayor may contract with a bank or credit card vendor, or third party provider, for the acceptance of the credit card or other form of payment, with any fee or charge for the election to use this method of payment absorbed by the taxpayer, or, in the alternative, paid to the vendor or contractor out of the monies collected. If the taxpayer elects to pay by one of these methods, the payment shall not be deemed to be made until the District receives the funds.

(c) The Mayor may require non-individual taxpayers to make payments electronically if the amount of the payment due for a period exceeds \$10,000.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334; Mar. 3, 2010, D.C. Law 18-111, § 7131, 57 DCR 181.)

**Effect of amendments.** — D.C. Law 18-111, in subsec. (c), substituted “\$10,000” for “\$25,000”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 7071 of Fiscal Year 2010 Budget Support Emergency Act of 2009 (D.C. Act 18-187, August 26, 2009, 56 DCR 7374).

For temporary (90 day) amendment of section, see § 7131 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) amendment of sec-

tion, see § 7131 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-305.02.

**Short title.** — Short title: Section 7130 of D.C. Law 18-111 provided that subtitle K of title VII of the act may be cited as the “Non-Individual Income Tax Electronic Filing Act of 2009”.

## § 47-4403. Closing agreements.

The Mayor may enter into a written agreement with a person relating to the liability of the person for a tax for any taxable period. If the agreement is approved by the Mayor within the time as may be stated in the agreement, or later agreed upon, the agreement shall be final and conclusive and, except upon a showing of fraud, malfeasance, or misrepresentation of a material fact:

- (1) The case shall not be reopened as to the matters agreed upon;
- (2) The agreement shall not be modified; and

(3) In a suit or proceeding relating to the tax liability of the taxpayer, the agreement shall not be annulled, modified, set aside, or disregarded.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334; July 18, 2008, D.C. Law 17-179, § 2, 55 DCR 6253.)

**Effect of amendments.** — D.C. Law 17-179 substituted “for any taxable period” for “for a period ending before the date of the agreement”.

**Temporary Amendment of Section.** — Section 2 of D.C. Law 16-256 substituted “for any taxable period” for “for a period ending before the date of the agreement”.

Section 5(b) of D.C. Law 16-256 provided that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 17-73 substituted “for any taxable period” for “for a period ending before the date of the agreement”.

Section 4(b) of D.C. Law 17-73 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2 of Closing Agreement Emergency Act of 2006 (D.C. Act 16-572, December 19, 2006, 54 DCR 15).

For temporary (90 day) amendment of section, see § 2 of Closing Agreement Emergency Act of 2007 (D.C. Act 17-146, October 17, 2007, 54 DCR 10754).

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

**Legislative history of Law 17-179.** — Law 17-179, the “Closing Agreement Act of 2008”, was introduced in Council and assigned Bill No. 17-69 which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 1, 2008, and May 6, 2008, respectively. Signed by the Mayor on May 20, 2008, it was assigned Act No. 17-372 and transmitted to both Houses of Congress for its review. D.C. Law 17-179 became effective on July 18, 2008.

**Editor’s notes.** — Section 3 of D.C. Law 17-179 provided: “Sec. 3. Applicability. Section 2 shall apply as of December 1, 2006.”

## § 47-4404. Compromise of tax.

If the Mayor believes there is a reasonable doubt as to the liability of the taxpayer or the collectibility of the tax imposed under this title, the Mayor may compromise the tax.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334.)

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

## § 47-4405. Collections through third party contractors.

(a) For purposes of this section, the term “delinquent taxes” includes all tax liabilities that are due and owing for a period longer than 90 days which may be collected under this chapter and for which the taxpayer has been sent notice in accordance with subsection (b)(1) of this section.

(b)(1) For the purpose of collecting delinquent taxes due from a taxpayer, the Mayor may contract with a collection agency inside or outside the District of Columbia. Before contracting with a collection agency, the Mayor shall send the taxpayer at least one written notice, by certified or registered mail, to the taxpayer’s last known mailing address requesting payment. The notice shall state that the matter of the taxpayer’s delinquency may be referred to a collection agency. The taxpayer shall have 30 days from the date of mailing of the certified or registered notice to pay, in full, the delinquent taxes before the delinquent account is referred to a collection agency.

(2) All funds collected by the collection agency shall be remitted to the Mayor not less than once a month. Forms to be utilized for the remittances may be prescribed by the Mayor. The Mayor may require that the collection agency furnish a bond securing compliance with the provisions of this subsection and the contract with the District of Columbia.

(3) The costs of collection, including reasonable attorneys’ or agents’ fees,



shall be the responsibility of the delinquent taxpayer. In addition to the costs of collection, the collection agency may charge a collection fee not in excess of 25% of the total amount of the delinquent taxes, including penalties and interest, that is actually collected.

(c) Notwithstanding any other provision contained in this title or Title 42, the tax return or other information required to be disclosed in connection with the tax return may be provided to a collection agency for purposes of collecting a delinquent tax under this section. If the tax return or other information is provided to a collection agency under this subsection, the collection agency shall not disclose the information to a third party, other than the taxpayer (or his or her representative), unless the Mayor would be authorized by law to make the disclosure. A collection agency, or employee of a collection agency, violating the provisions of this subsection shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000, or imprisoned for not more than 180 days, or both. All prosecutions under this paragraph shall be brought in the Superior Court of the District of Columbia on information by the Attorney General for the District of Columbia in the name of the District of Columbia.

(d) If the Mayor does not contract with a collection agency inside or outside the District of Columbia, for the collection of delinquent taxes due from a taxpayer, a collection fee not in excess of 25% may be charged by the District as set forth in subsection (b)(3) of this section.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334; Oct. 19, 2002, D.C. Law 14-213, § 33(bb), 49 DCR 8140; Apr. 4, 2003, D.C. Law 14-282, § 11(eee), 50 DCR 896; Apr. 13, 2005, D.C. Law 15-354, § 73(o)(1), 52 DCR 2638; Oct. 20, 2005, D.C. Law 16-33, § 1062, 52 DCR 7503.)

**Effect of amendments.** — D.C. Law 14-213, in subsec. (c), validated a previously made technical correction.

D.C. Law 14-282, in subsec. (c), substituted "Title 42" for "Title 45".

D.C. Law 15-354 substituted "Attorney General for the District of Columbia" for "Corporation Counsel".

D.C. Law 16-33, in subsec. (a), substituted "owing for a period longer than 90 days" for "owing for a period longer than 6 months"; in subsec. (b)(3), substituted "including penalties and interest" for "excluding penalties and interest"; and added subsec. (d).

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see 12(nnn) of Tax Clarity and Recorder of Deeds Temporary Act of 2002 (D.C. Law 14-191, October 5, 2002, law notification 49 DCR 9549).

For temporary (225 day) amendment of section, see 12(nnn) of Tax Clarity and Related Amendments Temporary Act of 2003 (D.C. Law 14-228, March 23, 2003, law notification 50 DCR 2741).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 12(mmm)

of Tax Clarity and Recorder of Deeds Emergency Act of 2002 (D.C. Act 14-381, June 6, 2002, 49 DCR 5674).

For temporary (90 day) amendment of section, see § 12(nnn) of Tax Clarity and Related Amendments Emergency Act of 2002 (D.C. Act 14-456, July 23, 2002, 49 DCR 8107).

For temporary (90 day) amendment of section, see § 12(nnn) of Tax Clarity and Related Amendments Congressional Review Emergency Act of 2002 (D.C. Act 14-510, October 23, 2002, 49 DCR 10247).

For temporary (90 day) amendment of section, see § 1062 of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

**Legislative history of Law 14-213.** — For Law 14-213, see notes following § 47-820.

**Legislative history of Law 14-282.** — For Law 14-282, see notes following § 47-902.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

**Legislative history of Law 16-33.** — For Law 16-33, see notes following § 47-308.01.

**Short title.** — Short title of subtitle M of title I of Law 16-33: Section 1061 of D.C. Law 16-33 provided that subtitle M of title I of the act may be cited as the Assessment of Collection Fees Act of 2005.

## § 47-4406. Secrecy of returns.

(a) Except as provided in subsections (b), (c), (d)(2), (e), (e-1), and (e-2) of this section, and except as to an official of the District of Columbia, having a right thereto in his official capacity, an officer, employee, or contractor, or a former officer, employee, or contractor, of the District of Columbia shall not divulge or make known in any manner the amount of reported value, or any information relating to value or the computation of value, disclosed in a return required to be filed under this title. The original (or a copy) of a tax return desired for use in litigation in court shall not be furnished where the District of Columbia or the United States is not interested in the result of the litigation, whether or not the request is contained in an order of the court. Nothing contained in this section shall prevent the furnishing to the taxpayer of a copy of his or her return upon the payment of a fee as provided by the Mayor. This subsection shall also be applicable to federal, state, or local tax returns (or copies of these returns) and to federal, state, or local tax information either submitted by the taxpayer or otherwise obtained.

(b) The District of Columbia may provide the information reported in a tax return to either the Mayor, the Office of Administrative Hearings, or the United States if either the District of Columbia or the United States is a party to litigation in which either of the 2 governments is interested in the result of the litigation and if the information reported in the tax return would be relevant to the liabilities of the parties in the litigation.

(c) The District of Columbia may provide the information reported in a tax return to either the federal government or a state government if the United States, with respect to disclosure to the federal government, and the state government, with respect to disclosure to the state government, grant substantially similar privileges to the District of Columbia.

(d) The District of Columbia may publish the following information if it does not identify particular tax returns and items in tax returns:

- (1) Statistics about the tax system;
- (2) A list of taxpayers who are delinquent in their taxes; and
- (3) Other information that may help the Mayor collect taxes.

(e) The District of Columbia may disclose information reported on tax returns to a contractor obligated to the District of Columbia to store documents or information to provide other services related to tax administration to the extent that the disclosure relates to the obligations of the contractor.

(e-1) The provisions of this section shall not apply to the return required by §§ 42-1103 and 47-903, unless otherwise provided by regulation.

(e-2) Notwithstanding [sic] any other provision of this section, the Office of Tax and Revenue may furnish in accordance with § 11-1905 to the Superior Court of the District of Columbia, upon request of the Court, the names, addresses, and social security numbers of individuals who have filed a return under § 47-1805.02(1).



(f) A person who willfully violates this section shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not more than \$1,000, or imprisoned not more than 180 days, or both. Prosecutions under this section shall be brought in the Superior Court of the District of Columbia by the Attorney General for the District of Columbia in the name of the District of Columbia.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334; Apr. 4, 2003, D.C. Law 14-282, § 11(fff), 50 DCR 896; Dec. 9, 2003, D.C. Law 15-50, § 2(b), 50 DCR 8980; Dec. 7, 2004, D.C. Law 15-217, § 4(m), 51 DCR 9126; Apr. 13, 2005, D.C. Law 15-354, § 73(o)(2), 52 DCR 2638.)

**Effect of amendments.** — D.C. Law 14-282, in subsec. (a), substituted “(e), and (e-1)” for “and (e)”; and added subsec. (e-1).

D.C. Law 15-50, in subsec. (a), substituted “, (e-1), and (e-2)” for “, and (e-1)”; and added subsec. (e-2).

D.C. Law 15-217, in subsec. (b), substituted “Mayor, the Office of Administrative Hearings,” for “Mayor”.

D.C. Law 15-354 substituted “Attorney General for the District of Columbia” for “Corporation Counsel”.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see 12(ooo) of Tax Clarity and Recorder of Deeds Temporary Act of 2002 (D.C. Law 14-191, October 5, 2002, law notification 49 DCR 9549).

For temporary (225 day) amendment of section, see 12(ooo) of Tax Clarity and Related Amendments Temporary Act of 2003 (D.C. Law 14-228, March 23, 2003, law notification 50 DCR 2741).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 12(nnn) of Tax Clarity and Recorder of Deeds Emergency Act of 2002 (D.C. Act 14-381, June 6, 2002, 49 DCR 5674).

For temporary (90 day) amendment of section, see § 12(ooo) of Tax Clarity and Related Amendments Emergency Act of 2002 (D.C. Act 14-456, July 23, 2002, 49 DCR 8107).

For temporary (90 day) amendment of section, see § 12(ooo) of Tax Clarity and Related

Amendments Congressional Review Emergency Act of 2002 (D.C. Act 14-510, October 23, 2002, 49 DCR 10247).

For temporary (90 day) amendment of section, see § 2(b) of Superior Court of the District of Columbia Master Jury List Project Clarification Emergency Act of 2003 (D.C. Act 15-111, July 29, 2003, 50 DCR 6571).

For temporary (90 day) amendment of section, see § 2(b) of Superior Court of the District of Columbia Master Jury List Project Clarification Legislative Review Emergency Act of 2003 (D.C. Act 15-201, October 24, 2003, 50 DCR 9831).

For temporary (90 day) amendment of section, see § 3(m) of Office of Administrative Hearings Establishment Emergency Amendment Act of 2004 (D.C. Act 15-513, August 2, 2004, 51 DCR 8976).

For temporary (90 day) amendment of section, see § 3(m) of Office of Administrative Hearings Establishment Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-553, October 26, 2004, 51 DCR 10359).

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

**Legislative history of Law 14-282.** — For Law 14-282, see notes following § 47-902.

**Legislative history of Law 15-50.** — For Law 15-50, see notes following § 47-1805.04.

**Legislative history of Law 15-217.** — For Law 15-217, see notes following § 47-1528.

**Legislative history of Law 15-354.** — For Law 15-354, see notes following § 47-340.03.

## § 47-4407. Amnesty for tax periods ending prior to December 31, 2009.

(a) The Chief Financial Officer may establish a program to provide amnesty to a taxpayer liable for the payment of certain Title 47 taxes on returns or reports required for tax periods ending prior to December 31, 2008; provided, that if the Chief Financial Officer shall establish the tax amnesty program for a period ending after December 31, 2009, the tax amnesty program shall apply to tax returns or reports for tax periods ending prior to December 31, 2009.

(b) Those eligible may receive amnesty from the imposition of any fee under

§ 47-4405, any fine or other civil or criminal penalty authorized under Chapters 41 or 42 of this title for the failure of the taxpayer to file a return or report, or pay a tax due for certain Title 47 taxes on a return or report that was required to be filed for tax periods as provided in subsection (a) of this section.

(c)(1) The Chief Financial Officer may implement and administer the program for amnesty under this section.

(2) The Chief Financial Officer may determine the specific dates for the amnesty period.

(3) Excluding Title 47 real property fees and taxes under Chapters 8, 9, and 12 of this title, any Title 47 payments in lieu of real property taxes and ballpark fees in Chapter 27B of this title, the Chief Financial Officer may determine the specific tax types for which amnesty shall be granted.

(4) The Chief Financial Officer may:

(A) Require a taxpayer seeking amnesty to submit the documents or records as the Chief Financial Officer considers necessary to determine the truthfulness or accuracy of a return or report filed pursuant to this section; or

(B) Subject any return or report filed pursuant to this section to the same audit procedures to which a return or report for the tax type is subjected.

(5) The Chief Financial Officer may promulgate rules as may be necessary to interpret, administer, and enforce the provisions of this section.

(Mar. 3, 2010, D.C. Law 18-111, § 7111(b), 57 DCR 181.)

**Emergency legislation.** — For temporary (90 day) addition, see § 7051(b) of Fiscal Year 2010 Budget Support Emergency Act of 2009 (D.C. Act 18-187, August 26, 2009, 56 DCR 7374).

For temporary (90 day) addition, see § 7111(b) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see

§ 7111(b) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-305.02.

**Short title.** — Short title: Section 7110 of D.C. Law 18-111 provided that subtitle I of title VII of the act may be cited as the “Tax Compliance Act of 2009”.

## *Subchapter II. Liens.*

### **§ 47-4421. Lien for taxes.**

(a) If a person liable to pay a tax neglects or refuses to pay the tax after demand, the amount, including any interest, addition to tax, or assessable penalty, together with any costs that may accrue, shall be a lien in favor of the District of Columbia upon all property (including rights to property), whether real or personal, belonging to the person, and shall have the same effect as a lien created by judgment. The lien shall attach to all property (including rights to property) belonging to, or acquired by, the person at any time during the period of the lien.

(b) A disclaimer of a property interest does not invalidate a lien under this section.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334; Mar. 2, 2007, D.C. Law 16-205, § 4, 53 DCR 9063.)



**Effect of amendments.** — D.C. Law 16-205, designated existing text as subsec. (a), and added subsec. (b).

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

**Legislative history of Law 16-205.** — Law 16-205, the “Uniform Disclaimers of Property Interests Revision Act of 2006”, was introduced in Council and assigned Bill No. 16-707, which

was referred to the Committee on Judiciary. The Bill was adopted on first and second readings on July 11, 2006, and October 3, 2006, respectively. Signed by the Mayor on October 25, 2006, it was assigned Act No. 16-505 and transmitted to both Houses of Congress for its review. D.C. Law 16-205 became effective on March 2, 2007.

## § 47-4422. Period of lien.

The lien imposed by § 47-4421 shall be deemed to have arisen at the time the assessment is made, or if the tax return is not timely filed, on the due date of the tax return, and shall continue until the liability for the amount assessed (or a judgment against the taxpayer arising out of the liability) is satisfied or becomes unenforceable; provided, that:

(1) A lien for the tax imposed by Chapter 20 of this title or § 47-1812.08 shall arise on the due date of the tax return; and

(2) A lien for the taxes imposed by Chapter 37 of this title shall arise on the date of death.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334.)

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

## § 47-4423. Lien priority.

(a) The lien imposed by § 47-4421 shall not be valid against a bona fide purchaser for value, holder of a security interest, mechanic’s lienor, or judgment lien creditor until the lien has been filed with the Recorder of Deeds.

(b) In the case of business property sold, transferred, or assigned in bulk other than in the ordinary course of trade or business, the purchaser shall also be deemed to have notice of taxes owing if the purchaser fails to give timely notice to the Mayor under § 47-4461.

(c) Notwithstanding subsection (a) of this section, the lien imposed by § 47-4421 for tax owing under Chapter 20 or § 47-1812.08 shall be valid against a purchaser, holder of a security interest, mechanic’s lienor, or judgment lien creditor regardless of when the lien is filed with the Recorder of Deeds; provided, that the lien shall not be valid against a bona fide purchaser for value of homestead real property.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334; Apr. 4, 2003, D.C. Law 14-282, § 11(ggg), 50 DCR 896.)

**Effect of amendments.** — D.C. Law 14-282 rewrote the section which had read as follows: “Except for a lien for the tax imposed by Chapter 20 of this title or § 47-1812.08, the lien imposed by § 47-4421 shall not be valid as against a purchaser, holder of a security interest, mechanic’s lienor, or judgment lien creditor

until the lien has been filed with the Recorder of Deeds.”

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see 12(ppp) of Tax Clarity and Recorder of Deeds Temporary Act of 2002 (D.C. Law 14-191, October 5, 2002, law notification 49 DCR 9549).

For temporary (225 day) amendment of section, see 12(ppp) of Tax Clarity and Related Amendments Temporary Act of 2003 (D.C. Law 14-228, March 23, 2003, law notification 50 DCR 2741).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 12(ooo) of Tax Clarity and Recorder of Deeds Emergency Act of 2002 (D.C. Act 14-381, June 6, 2002, 49 DCR 5674).

For temporary (90 day) amendment of section, see § 12(ppp) of Tax Clarity and Related

Amendments Emergency Act of 2002 (D.C. Act 14-456, July 23, 2002, 49 DCR 8107).

For temporary (90 day) amendment of section, see § 12(ppp) of Tax Clarity and Related Amendments Congressional Review Emergency Act of 2002 (D.C. Act 14-510, October 23, 2002, 49 DCR 10247).

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

**Legislative history of Law 14-282.** — For Law 14-282, see notes following § 47-902.

### *Subchapter III. Refund Offset.*

#### **§ 47-4431. Refund offset.**

(a) The Mayor, within the applicable period of limitations set forth in § 47-4302, may credit the amount of the overpayment of a tax, including interest allowed thereon, against the liability for a tax or an installment thereof (whether the tax was assessed as a deficiency or otherwise) of the person who made the overpayment and shall, subject to subsections (c) and (d) of this section, refund any balance to the person.

(b) The Mayor may credit the amount of the overpayment, including interest, in the following order of priority:

(1) Liability for District of Columbia taxes;

(2) Liability for United States taxes;

(3) Liability for state, local, or municipal taxes if a reciprocal tax refund offset agreement with the District under § 47-4440(e) is in effect at the time the refund is to be issued; and

(4) Other liabilities set forth in this section.

(c) The Mayor shall credit the amount of the overpayment of an individual who has been determined:

(1) To owe overdue child support, as defined in section 466(e) of the Social Security Act, approved August 16, 1984 (98 Stat. 1310; 42 U.S.C. § 666(e)), for purposes of enforcing an order under any state plan approved under Part D of Title IV of the Social Security Act, approved January 4, 1975 (88 Stat. 2351; 42 U.S.C. § 651 et seq.), for persons identified by the Mayor under subsection (d) of this section;

(2) To be in default under the provisions of federal student loan programs as determined under subsection (e) of this section; or

(3) To owe to the District a repayment for benefit overpayment under Chapter 1 of Title 51 as determined under subsection (f) of this section.

(d) Upon request, the Superior Court of the District of Columbia shall provide the Mayor with the names, and any other available identifying information, of individuals whom the Superior Court of the District of Columbia has determined are more than 60 days in arrears in court-ordered child support payments.

(e) For purposes of collecting an amount determined to be in default under federal student loan programs, the university shall provide the Mayor with the



names, and any other available identifying information, of individuals whom the university has determined to be in default. A determination and notice of default under federal student loan programs shall be made as follows:

(1) The determination of whether an individual is in default under subsection (c)(2) of this section and the defaulted principal amount outstanding shall be made in accordance with the terms of the loan.

(2) Immediately upon the university's determination that an individual is in default, the university shall provide the individual with written notice of its determination by registered mail. The individual shall have 10 days from receipt of the notice to inform the university of the individual's intention to contest the validity of the determination.

(3) Upon receipt of notice that an individual intends to contest the validity of the university's determination, the university shall provide the individual with a hearing in accordance with the provisions of subchapter I of Chapter 5 of Title 2.

(f) For purposes of collecting an amount determined to be an overpayment of unemployment compensation, the Department of Employment Services, through its Director, shall provide the Mayor with the names, and any other identifying information, of individuals whom the Director has determined to have received benefit overpayments. Determination and notice of overpayment of unemployment compensation shall be made in accordance with the provisions of §§ 51-111, 51-112, and 51-119.

(g) For purposes of this section, the term:

(1) "University" means the University of the District of Columbia established by § 38-1202.01(b);

(2) "Federal student loan programs" means the programs authorized by the National Defense Education Act of 1958, approved September 2, 1958 (72 Stat. 1580; 20 U.S.C. § 401 et seq.), the Higher Education Act of 1965, approved Nov. 8, 1965 (79 Stat. 1219; 20 U.S.C. § 1001 et seq.), and Part B of Title VIII of the Public Health Service Act, approved September 4, 1964 (78 Stat. 913; 42 U.S.C. § 297a et seq.).

(3) "Unemployment compensation" means the unemployment compensation benefits paid under the program established by Chapter 1 of Title 51 and administered under Reorganization Plan No. 1 of 1980, effective April 17, 1980.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334; Oct. 19, 2002, D.C. Law 14-213, § 33(cc), 49 DCR 8140.)

**Effect of amendments.** — D.C. Law 14-213, in subsecs. (c)(3), (e)(3), (f), (g)(1) and (g)(3), validated previously made technical corrections.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

**Legislative history of Law 14-213.** — For Law 14-213, see notes following § 47-820.

## § 47-4432. Joint and combined returns; real property refund due to more than one owner.

If a joint income tax return is filed, the Mayor shall separate the amount due to the spouse who owes delinquent taxes from the spouse who does not owe delinquent taxes based upon the proportion of gross income of each spouse. In

applying the tax refund against delinquent taxes owed by a spouse, the tax refund of the spouse who does not owe delinquent taxes shall not be credited against the liability of the spouse who owes delinquent taxes. If a separate income tax return on a combined individual form prescribed by the Mayor is filed, the tax refund of the spouse who does not owe delinquent taxes shall not be credited against the liability of the spouse who owes delinquent taxes. If a real property tax refund is due to more than one owner of real property, the Mayor shall separate the amount of tax refund of the owners who are liable for delinquent taxes from the owners who are not liable for delinquent taxes determined on the basis of each owner's ownership percentage in the real property. For the purposes of this section, the term "spouse" shall include a domestic partner who files under § 47-1805.01(d)[(d) repealed].

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334; Mar. 14, 2007, D.C. Law 16-292, § 2(g), 54 DCR 1080.)

**Effect of amendments.** — D.C. Law 16-292 added a sentence to the end of the section providing that the term "spouse" shall include a domestic partner who files under § 47-1805.01(d).

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

**Legislative history of Law 16-292.** — For Law 16-292, see notes following § 47-1801.04.

## § 47-4433. Notice and protest.

(a) If the refund offset concerns (1) the existence or amount of an arrearage for court-ordered child support, a default under a federal student loan program, or the overpayment of unemployment compensation benefits under § 47-4431(c), or (2) the division of a joint refund under § 47-4432, the taxpayer shall have the right to contest the proposed referral for offset of the tax refund, the offset of the tax refund, or the apportionment of the tax refund. Before a refund offset is disbursed, the Mayor shall notify the taxpayer in writing that he or she may file a protest with the Office of Administrative Hearings to challenge the proposed refund offset within 30 days of service of the notice.

(b) Any notice of refund offset described in subsection (a) of this section shall be governed by the procedures set forth in § 47-4312 for assessments of deficiencies.

(c) The Office of Administrative Hearings shall refuse to consider a protest if:

(1) The protest solely concerns an issue which has been previously decided and no new facts or evidence have been provided; or

(2) The protest is not filed within the period set forth in the notice.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334; Dec. 7, 2004, D.C. Law 15-217, § 4(n), 51 DCR 9126.)

**Effect of amendments.** — D.C. Law 15-217, in subsec. (a), substituted "that he or she may file a protest with the Office of Administrative Hearings to challenge the proposed refund offset within 30 days of service of the notice." for "and provide a period of at least 30 days after the notice is sent to the taxpayer to

file a protest."; rewrote subsec. (b); and, in subsec. (c), substituted "Office of Administrative Hearings" for "Mayor". Prior to amendment, subsec. (b) had read as follows: "(b) If a protest is filed within the period set forth in the notice, an administrative hearing shall be granted by the Mayor. The Mayor shall



promptly notify the taxpayer of the final determination of the protest. If no protest is filed within the period, a refund offset or apportionment, as determined by the Mayor, shall be final."

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(n) of Office of Administrative Hearings Establishment Emergency Amendment Act of 2004 (D.C. Act 15-513, August 2, 2004, 51 DCR 8976).

For temporary (90 day) amendment of section, see § 3(n) of Office of Administrative Hearings Establishment Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-553, October 26, 2004, 51 DCR 10359).

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

**Legislative history of Law 15-217.** — For Law 15-217, see notes following § 47-1528.

## § 47-4434. Return of refund in certain cases.

If the Mayor determines that all or a portion of a tax refund should not have been offset, or that the division of a joint tax refund was incorrect, the Mayor shall return the excess amount to the taxpayer within 30 days of the determination.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334.)

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

## § 47-4435. Deposit of offset amount; application when more than one debt.

(a) The amount offset for liabilities other than District of Columbia or United States taxes shall be deposited with:

(1) The agency of the District responsible for administering the child support program as authorized by Part D of Title IV of the Social Security Act, approved January 4, 1995 (88 Stat. 2351; 42 U.S.C. § 651 et seq.), and shall be disbursed in accordance with section 651 of the Social Security Act, approved January 4, 1995 (88 Stat. 2356; 42 U.S.C. § 657) and the regulations promulgated thereunder;

(2) The university (for refunds withheld from individuals in default under a federal student loan program) and applied to the repayment of the amount of principal determined to be in default; or

(3) The Department of Employment Services and applied to the repayment of the Unemployment Compensation Fund.

(b) If the Mayor is notified that a taxpayer owes more than one debt that is subject to an offset of a tax refund under § 47-4431(c), the Mayor shall apply the portion of tax refund of a taxpayer remaining after application to satisfy in the following order:

(1) To satisfy any court-ordered child support under § 47-4431(c)(1);

(2) To satisfy the default under a federal student loan under § 47-4431(c)(2); and

(3) To satisfy overpayments of unemployment compensation under § 47-4431(c)(3).

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334.)

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

**§ 47-4436. Applicability in certain cases.**

(a) The provisions of this subchapter relating to the offset of tax refunds of individuals who are in arrears with court-ordered child support payments shall apply to income tax refunds issued after September 18, 1982.

(b) The provisions of this subchapter relating to the offset of tax refunds of individuals in default under the federal student loan programs shall apply to income tax refunds issued for tax years 1987 and thereafter.

(c) The provisions of this section relating to an offset of tax refunds of individuals who received overpayments of unemployment compensation shall apply to income tax refunds issued for Tax Year 1993 and subsequent years.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334.)

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

**§ 47-4437. Right of appeal to Superior Court.**

A person aggrieved by a final determination of the Mayor in accordance with this subchapter may, within 6 months from the date of the determination, appeal to the Superior Court of the District of Columbia, in the same manner and to the same extent as set forth in §§ 47-3303, 47-3304, and 47-3306 through 47-3308.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334.)

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

**§ 47-4438. Priority.**

The offset of a tax refund against the delinquent taxes for which a taxpayer is liable shall have priority over the offset of a tax refund requested by the United States.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334.)

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

**§ 47-4439. Other methods not precluded.**

The collection remedy under this subchapter shall be in addition to, and not in substitution for, any other remedy available by law.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334.)

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.



## § 47-4440. Reciprocal refund offset.

(a) The chief taxing official of a state, local, or municipal government may certify to the Mayor the existence of a tax debt and request that the Mayor withhold a refund due to a taxpayer to satisfy the debt owed by the taxpayer to the requesting state, local, or municipal government.

(b) A request under subsection (a) of this section shall not be honored unless the state, local, or municipal government provides a reciprocal right of credit to the District of Columbia.

(c) Certification of a tax debt shall include:

(1) The full name and current address of the taxpayer;

(2) The taxpayer's social security number or federal identification number;

(3) The amount of the debt, including a detailed statement showing tax, interest, and penalty for each taxable period; and

(4) A statement that all rights to administrative remedies or appeals have been exhausted or lapsed and that the assessment of tax, interest, and penalty is final and enforceable.

(d) Upon receipt of a request under subsection (a) of this section, the Mayor shall notify the taxpayer (and in the case of a refund of a tax imposed upon the income of individuals, a spouse (or domestic partner) with whom the taxpayer filed a joint return). The notice shall include a copy of the certification by the chief taxing official of the requesting state, local, or municipal government.

(e) The Mayor may enter into agreements with the chief taxing official of a state, local or municipal government with respect to the operation of this section, including safeguards against the disclosure or inappropriate use of any information which personally identifies the taxpayer.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334; Mar. 14, 2007, D.C. Law 16-292, § 2(h), 54 DCR 1080.)

**Effect of amendments.** — D.C. Law 16-292 substituted "spouse (or domestic partner)" for "spouse".

**Legislative history of Law 16-292.** — For Law 16-292, see notes following § 47-1801.04.

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

## *Subchapter IV. Jeopardy.*

## § 47-4451. Jeopardy and termination.

(a) If the Mayor believes that the assessment or collection of a deficiency of a tax imposed under this title (except real property taxes) will be jeopardized by delay, or if the Mayor finds that a taxpayer designs quickly to depart from the United States or to remove his property therefrom, to conceal himself or his property therein, or to perform any other act (including, in the case of a corporation, distributing all or a part of its assets in liquidation or otherwise) tending to prejudice or to render wholly or partially ineffectual proceedings to collect a tax, the Mayor may immediately make a determination of tax due and shall, notwithstanding any other law, immediately assess the tax, together

with all interest and additions to the tax, and notice and demand shall be made for the payment thereof.

(b) If a jeopardy assessment has been made, the taxpayer shall have the right to file, within 5 business days, a protest of the assessment of tax, the seizure of property, or both. The protest shall be governed by the procedures set forth in § 47-4312, except that the 30-day filing deadline established in § 47-4312(a) shall not apply. If a timely protest is filed, the property seized for the collection of the tax shall not be sold until completion of the proceedings in the Office of Administrative Hearings.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334; Dec. 7, 2004, D.C. Law 15-217, § 4(o), 51 DCR 9126.)

**Effect of amendments.** — D.C. Law 15-217 rewrote subsec. (b) which had read as follows: “(b) If a jeopardy assessment has been made, the taxpayer shall have the right to administratively appeal, within 5 business days, the assessment of tax, the seizure of property, or both, and the property seized for the collection of the tax shall not be sold until the appeal is completed.”

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(o) of Office of Administrative Hearings Establish-

ment Emergency Amendment Act of 2004 (D.C. Act 15-513, August 2, 2004, 51 DCR 8976).

For temporary (90 day) amendment of section, see § 3(o) of Office of Administrative Hearings Establishment Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-553, October 26, 2004, 51 DCR 10359).

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

**Legislative history of Law 15-217.** — For Law 15-217, see notes following § 47-1528.

## § 47-4452. Bond to stay collection.

(a) The collection of any or all of the amount of the assessment may be stayed by filing with the Mayor a bond in an amount, equal to 150% of the amount to be stayed, and with sureties as the Mayor may approve, conditioned upon the payment of the amount (together with interest accruing thereon) for which the collection is stayed. The taxpayer shall have the right to waive the stay at any time in respect to the whole or any part of the amount covered by the bond, and if, as a result of the waiver, part of the assessment covered by the bond is paid, the bond shall, at the request of the taxpayer, be proportionately reduced. If a part of the assessment is abated, the bond shall, at the request of the taxpayer, be proportionately reduced.

(b) Repealed.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334; Dec. 7, 2004, D.C. Law 15-217, § 4(p), 51 DCR 9126.)

**Effect of amendments.** — D.C. Law 15-217 repealed subsec. (b) which had read as follows: “(b) If a jeopardy assessment has been made under § 47-4451, the taxpayer may administratively appeal, within 5 business days, the assessment of tax or the seizure of property and the property seized for the collection of the tax shall not be sold until any appeal is completed.”

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3(p) of Office of Administrative Hearings Establish-

ment Emergency Amendment Act of 2004 (D.C. Act 15-513, August 2, 2004, 51 DCR 8976).

For temporary (90 day) amendment of section, see § 3(p) of Office of Administrative Hearings Establishment Congressional Review Emergency Amendment Act of 2004 (D.C. Act 15-553, October 26, 2004, 51 DCR 10359).

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

**Legislative history of Law 15-217.** — For Law 15-217, see notes following § 47-1528.



*Subchapter V. Bulk Sales.***§ 47-4461. Notice of bulk sale.**

The purchaser, transferee, or assignee (“purchaser”) of all or a part of the inventory, furnishings, equipment, materials, or supplies (“property”) of a business, pursuant to a sale, transfer, or assignment in bulk other than in the ordinary course of trade or business (“sale”), shall, at least 15 days before taking possession of or paying for the property, notify the Mayor by registered or certified mail. The notice shall identify the price, terms, and conditions of the sale, including a description of the property being sold, its location, and the identity of the seller, transferor, or assignor (“seller”). The notice is required whether or not the seller has represented to, or informed, the purchaser that it owes tax under this title, whether it has complied with § 28:6-104, or whether taxes are in fact owing.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334; Apr. 4, 2003, D.C. Law 14-282, § 11(hhh), 50 DCR 896.)

**Effect of amendments.** — D.C. Law 14-282 substituted “furnishings” for “fixtures”.

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 12(qqq) of Tax Clarity and Recorder of Deeds Temporary Act of 2002 (D.C. Law 14-191, October 5, 2002, law notification 49 DCR 9549).

For temporary (225 day) amendment of section, see § 12(qqq) of Tax Clarity and Related Amendments Temporary Act of 2003 (D.C. Law 14-228, March 23, 2003, law notification 50 DCR 2741).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 12(ppp) of Tax Clarity and Recorder of Deeds Emergency

Act of 2002 (D.C. Act 14-381, June 6, 2002, 49 DCR 5674).

For temporary (90 day) amendment of section, see § 12(qqq) of Tax Clarity and Related Amendments Emergency Act of 2002 (D.C. Act 14-456, July 23, 2002, 49 DCR 8107).

For temporary (90 day) amendment of section, see § 12(qqq) of Tax Clarity and Related Amendments Congressional Review Emergency Act of 2002 (D.C. Act 14-510, October 23, 2002, 49 DCR 10247).

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

**Legislative history of Law 14-282.** — For Law 14-282, see notes following § 47-902.

**§ 47-4462. Failure to give notice; existence of claim for tax.**

If the purchaser fails to give the notice set forth in § 47-4461 or the Mayor informs the purchaser that a possible claim for tax exists:

(1) The money or other consideration which the purchaser is required to pay for the sale shall be subject to a first priority right and lien for the taxes determined to be due from the seller to the District of Columbia; and

(2) The purchaser shall not pay the seller any money or other consideration to the extent of the amount of the lien.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334.)

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

**§ 47-4463. Personal liability.**

A purchaser who fails to comply with the provisions of § 47-4461 or § 47-4462 shall be personally liable for the payment to the District of Columbia of the taxes determined to be due from the seller to the extent of the fair market value of the assets transferred.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334.)

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

*Subchapter VI. Distraint.*

**§ 47-4471. Distraint.**

(a) If a person determined to be liable to the District of Columbia for a tax neglects or refuses to pay the tax within 10 days after notice and demand, the Mayor may collect the tax, with interest and penalties thereon (and an amount sufficient to cover the expenses of the levy), by levy upon all property (including rights to property) of the person or on which there is a lien provided in this chapter for the payment of the tax. Levy shall be made upon the accrued salary or wages of an officer, employee, or elected official of the District of Columbia, or an agency or instrumentality of the District of Columbia, by serving a notice of levy on the employer of the officer, employee, or elected official. If the Mayor finds that the collection of the tax is in jeopardy under § 47-4451, notice and demand for immediate payment of the tax may be made by the Mayor and, upon failure or refusal to pay the tax, the tax may be collected by levy without regard to the 10-day period provided in this section.

(b) For the purposes of this subchapter, the term “levy” includes the exercise of the power of distraint and seizure by any means. Except as otherwise provided in subsection (e) of this section, a levy shall extend only to property possessed and obligations existing at the time of the levy. If the Mayor levies upon property, the Mayor may seize and sell the property.

(c) If property levied upon under subsection (a) of this section is not sufficient to satisfy the amount due to the District of Columbia, the Mayor may levy upon any other property of the person until the amount due, together with all expenses, is fully paid.

(d)(1) Levy shall be made under subsection (a) of this section upon the salary, wages, or other property of a person with respect to an unpaid tax only after the Mayor has notified the person in writing of his intention to make the levy.

(2) The notice required under paragraph (1) of this subsection shall be:

(A) Given in person;

(B) Left at the dwelling or usual place of business of the person with some person of suitable age and discretion residing or working therein; or

(C) Sent by mail to the person’s last known address.

(3) Paragraph (1) of this subsection shall not apply to a levy if the Mayor finds in accordance with subsection (a) of this section that the collection of tax is in jeopardy.



(4) Paragraph (1) of this subsection shall not apply to a levy against an account maintained at a third-party financial institution.

(e) The effect of a levy on salary or wages payable to, or received by, a taxpayer shall be continuous from the date the levy is first made until the levy is released.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334; Apr. 4, 2003, D.C. Law 14-282, § 11(iii), 50 DCR 896.)

**Effect of amendments.** — D.C. Law 14-282 added subsec. (d)(4).

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 12(rrr) of Tax Clarity and Recorder of Deeds Temporary Act of 2002 (D.C. Law 14-191, October 5, 2002, law notification 49 DCR 9549).

For temporary (225 day) amendment of section, see § 12(rrr) of Tax Clarity and Related Amendments Temporary Act of 2003 (D.C. Law 14-228, March 23, 2003, law notification 50 DCR 2741).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 12(qqq) of Tax Clarity and Recorder of Deeds Emergency

Act of 2002 (D.C. Act 14-381, June 6, 2002, 49 DCR 5674).

For temporary (90 day) amendment of section, see § 12(rrr) of Tax Clarity and Related Amendments Emergency Act of 2002 (D.C. Act 14-456, July 23, 2002, 49 DCR 8107).

For temporary (90 day) amendment of section, see § 12(rrr) of Tax Clarity and Related Amendments Congressional Review Emergency Act of 2002 (D.C. Act 14-510, October 23, 2002, 49 DCR 10247).

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

**Legislative history of Law 14-282.** — For Law 14-282, see notes following § 47-902.

## § 47-4472. Notice and sale.

(a) After seizure of property, notice in writing shall be given by the Mayor to the owner of the property (or, in the case of personal property, the possessor of the property), or shall be left at his usual place of abode or business. If the owner cannot be readily located, or has no dwelling or place of business, the notice may be mailed to his last known address.

(b) After giving notice to the owner in the manner prescribed in subsection (a) of this section, the Mayor shall publish a notice 3 times in a daily newspaper of general circulation within the area wherein the seizure is made. The notice shall specify the property to be sold, and the time, place, manner, and conditions of the sale thereof.

(c) If property subject to levy is not divisible, so as to enable the Mayor by sale of a part thereof to raise the whole amount of the tax and expenses, the whole of the property shall be sold.

(d) The time of sale shall not be less than 10 days or more than 40 days from the date of the third public notice under subsection (b) of this section. The place of sale shall be determined by the Mayor.

(e)(1) If, at the sale, one or more persons offer to purchase such property for not less than the minimum price determined by the Mayor, the property shall be declared sold to the highest bidder.

(2) If, at the sale, the property is not declared sold, the property may be released to the owner and the expense of the levy and sale shall be added to the amount of tax for the collection of which the levy was made. Property released under this paragraph shall remain subject to any lien imposed by this title and shall be subject to further seizure.

(3)(A) The sale shall not be conducted in any manner other than by public auction or by public sale under sealed bids.

(B) In the case of the seizure of several items of property, the property may be offered separately, in groups, or in the aggregate, under whichever method may produce the highest aggregate amount.

(C) The Mayor may adjourn the sale from time to time.

(4) If payment of the bid price is not made in full, the Mayor may declare the sale to be void, the amount paid upon the bid price by the defaulting purchaser shall be forfeited, and the property may again be advertised and sold as provided in subsections (b) and (c) of this section. The amount paid upon the bid price by the defaulting purchaser shall be applied first to the expense of the levy and sale and then to the amount of tax for the collection of which the levy was made. In the event of a readvertisement and sale, a new purchaser shall receive the property, free and clear of any claim or rights of the defaulting purchaser.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334.)

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

### **§ 47-4473. Storage and sale of perishable property.**

If the Mayor seizes property to enforce the payment of the tax, the property seized shall be kept in a safe and convenient place until the sale of the property. If the Mayor determines that the property seized may perish, may become greatly reduced in value while stored, or cannot be kept without great expense, the Mayor shall appraise the value of the property. If the Mayor can readily find the owner, the Mayor shall notify the owner in writing of the appraised value of the property. The Mayor shall return the property to the owner if, within the period stated in the notice, the owner either pays the Mayor the appraised value of the property or gives the Mayor a bond to pay the appraised amount at a time that the Mayor considers appropriate under the circumstances. If the owner does not pay the amount or furnish the bond in accordance with this section, the Mayor shall as soon as practicable, and without regard to the notice requirements under § 47-4472(b) and (d), make a public sale of the property under § 47-4472(e).

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334.)

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

### **§ 47-4474. Redemption of property.**

(a) A person whose property has been levied upon shall have the right to pay the amount due, together with the expenses of the proceeding, if any, to the Mayor at any time before the sale of the property, and upon the payment, the Mayor shall restore the property to him, and all further proceedings in connection with the levy on the property shall cease.



(b)(1) The owners of real property sold as provided in this chapter; their heirs, executors, or administrators; any person having an interest in or a lien on the property; or any person on their behalf, shall be permitted to redeem the property sold at any time within 180 days after the sale.

(2) The property may be redeemed upon payment to the purchaser (or if the purchaser cannot be found, to the Mayor), for the use of the purchaser, his heirs, or assigns, the amount paid by the purchaser and interest thereon at the rate of 18% per year.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334.)

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

#### CASE NOTES

**In general.**

The redeeming owner of a tax sale property was entitled to the rental value of the property prior to redemption, but subsequent to the tax purchaser's eviction of a tenant and refusal to re-let the premises and escrow the rent pending the outcome of the dispute regarding the property's ownership; potential rent was lost as a direct result of the tax purchaser's failure to

cooperate with the potential true owner in renting the property and escrowing the rent pendente lite, and even though an order quieting title in the purchaser was in effect, the trial court vacated the order and invalidated the tax deed ab initio, and the purchaser was on notice of the owner's claim. *Real Estate Escrow, Inc. v. Fitzgerald*, 846 A.2d 289, 2004 D.C. App. LEXIS 155 (2004).

### § 47-4475. Certificate of sale; deed of real property.

(a) If property is sold as provided in § 47-4472, the Mayor shall give to the purchaser a certificate of sale upon payment in full of the purchase price. In the case of real property, the certificate shall set forth the real property purchased, for whose taxes the property was sold, the name of the purchaser, and the price paid.

(b) In the case of real property sold as provided in § 47-4472 and not redeemed in the manner and within the time specified in § 47-4474(b), upon the surrender of the certificate of sale, the Mayor shall execute a deed to the real property, reciting the facts set forth in the certificate.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334.)

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

### § 47-4476. Legal effect of certificate of sale of personal property and deed of real property.

(a) In all cases of sale of property (other than real property) sold under § 47-4472, the certificate of the sale:

(1) Shall be prima facie evidence of the right of the officer to make the sale and conclusive evidence of the regularity of the proceedings in making the sale;

(2) Shall transfer all rights in the property sold;

(3) If the property is the stock of a corporation, company, or association, shall be notice, when received, to the corporation, company, or association of

the transfer, and shall be authority to the corporation, company, or association to record the transfer on its books and records in the same manner as if the stock was transferred or assigned by the taxpayer, in lieu of an original or prior certificate, which shall be void, whether canceled or not;

(4) If the property is securities (other than stock) or other evidences of debt, shall be a good and valid receipt to the purchaser, as against a person holding, or claiming to hold, the securities or other evidences of debt; and

(5) If the property is a motor vehicle, shall be notice, when received, to a public official charged with the registration of title to motor vehicles of the transfer, and shall be authority to the official to record the transfer on the books and records in the same manner as if the certificate of title to the motor vehicle were transferred or assigned by the taxpayer, in lieu of an original or prior certificate, which shall be void, whether canceled or not.

(b) In the case of the sale of real property under § 47-4472:

(1) The deed of sale given under § 47-4475(b) shall be prima facie evidence of the facts set forth in the deed; and

(2) If the seizure and sale have been made substantially in accordance with the law, the deed shall convey all rights of the delinquent party in the real property at the time that the lien of the District of Columbia attached.

(c) A certificate of sale of personal property given, or a deed to real property executed, under § 47-4475 shall discharge the property from all liens, encumbrances, and titles over which the lien of the District of Columbia with respect to which the levy was made had priority.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334.)

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

## § 47-4477. Application of proceeds.

(a) The proceeds realized from a seizure and sale under this chapter shall be applied in the following order of priority:

- (1) The expenses of the proceedings for seizure and sale;
- (2) The specific tax liability on the seized property;
- (3) The liability for which the levy was made or the sale was conducted;
- (4) Any other District of Columbia tax liability due and unpaid.

(b) Any proceeds remaining after the application of subsection (a) of this section shall, upon application and satisfactory proof, be credited or refunded by the Mayor to the person entitled thereto.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334.)

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

## § 47-4478. Release of levy and return of property.

(a) The Mayor shall release the levy upon all, or part, of the property levied



upon and shall promptly notify the person upon whom the levy was made (if any) that the levy has been released if:

(1) The liability for which the levy was made is satisfied or becomes unenforceable;

(2) Release of the levy will facilitate the collection of the liability;

(3) The taxpayer has entered into an agreement to satisfy the liability by means of installment payments (unless the agreement provides otherwise); provided, that the Mayor shall not be required to release the levy if the release would jeopardize the status of the District of Columbia as a secured creditor;

(4) The Mayor determines that the levy is creating an economic hardship due to the financial condition of the taxpayer; or

(5) The fair market value of the property exceeds the liability and release of the levy on part of the property will not hinder the collection of the liability.

(b) The release of levy on a property under subsection (a)(1) of this section shall not prevent a subsequent levy on the property.

(c) If the Mayor determines that property has been wrongfully levied upon, the Mayor may return:

(1) The specific property levied upon, at any time;

(2) An amount of money equal to the amount of money levied upon; or

(3) An amount of money equal to the amount of money received by the District of Columbia from a sale of the property.

(d) Interest shall be allowed and paid at the overpayment rate established in § 47-4212:

(1) In a case described in subsection (c)(2) of this section, from (A) the date of receipt of the money by the Mayor from the levy to (B) a date (to be determined by the Mayor) preceding the date of return of the money by not more than 60 days; or

(2) In a case described in subsection (c)(3) of this section, from (A) the date of the sale of the property to (B) a date (to be determined by the Mayor) preceding the date of return of the proceeds of sale by not more than 60 days.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334.)

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

## **§ 47-4479. Judgment for wrongful distraint.**

If there is a recovery in a suit or proceeding against the Mayor (or the Mayor's designee), for a wrongful distraint or any other act performed by the Mayor or for the recovery of money paid to the Mayor and transmitted to the District of Columbia in the performance of the Mayor's official duty, and the court finds there was probable cause for the act performed, an execution shall not issue thereon, but the amount so recovered shall, upon final judgment, be paid by the District of Columbia in the same manner as judgments against the District of Columbia are paid.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334.)

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

**§ 47-4480. Liability for failure or refusal to surrender.**

A person who fails or refuses to surrender property subject to distraint on which a levy has been made shall be liable to the District of Columbia for the value of the property not surrendered, but not exceeding the amount of the taxes, including interest and penalties, for which the levy has been made, together with costs and interest thereon from the date of the levy.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334.)

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.

**§ 47-4481. Financial institutions, requests for information.**

(a)(1) The Chief Financial Officer may request, up to 4 times per year, information and assistance from a financial institution concerning any obligor who is delinquent in the payment of taxes to aid in the enforcement of District tax laws.

(2) The CFO's request shall:

(A) Include the full name of the obligor and any other names known to be used by the obligor;

(B) Include the social security number, or other taxpayer identification number, of the obligor; and

(C) Be transmitted to the financial institution in an electronic format, unless the financial institution asks the CFO to submit the request in hard-copy form.

(b)(1) Within 30 days of receipt of a request from the CFO, the financial institution shall, with respect to each obligor whose name the CFO submitted to the financial institution, submit a report, in machine-readable form, to the CFO in compliance with paragraph (3) of this subsection.

(2) A financial institution submitting a report to the CFO pursuant to this section is prohibited from disclosing to an obligor that his or her name has been received in a request for information or furnished to the CFO.

(3)(A) Except as provided in subparagraph (B) of this paragraph, the report required pursuant to paragraph (1) of this subsection shall contain, to the extent reflected in the records of the financial institution:

(i) The full name of the obligor;

(ii) The address of the obligor;

(iii) The social security number, or other taxpayer identification number, of the obligor;

(iv) Any other identifying information needed to ensure positive identification of the obligor; and

(v) For each account of the obligor, the obligor's account number and balance.



(B) For a financial institution that submits reports through the Federal Parent Locator Service under 42 U.S.C. § 666(a)(17), a report that contains the information that meets the specifications required for financial-data-match reports under the Federal Parent Locator Service shall meet the requirements of this subsection.

(c) A financial institution that submits a report in compliance with this section is not liable to any person for:

(1) Disclosure of any information submitted to the CFO in accordance with this section; or

(2) Any other action taken in good faith to comply with the requirements of this section.

(d) The Mayor may institute civil proceedings to enforce this section through the Office of Attorney General for the District of Columbia.

(e) For the purposes of this section, the term:

(1) "Account" means any funds from a demand deposit account, checking account, negotiable order of withdrawal account, savings account, time deposit account, money market mutual fund account, or certificate of deposit account, any funds paid towards the purchase of shares or other interest in a financial institution, and any funds or property held by a financial institution, and does not include an account or portion of an account to which an obligor does not have access due to the pledge of the funds as security for a loan or other obligation, funds on property deposited to an account after the time that the financial institution initially attaches the account, an account or portion of an account to which the financial institution has a present right to exercise a right of setoff, an account or portion of an account that has an account holder of interest named as an owner on the account, or an account or portion of an account to which the obligor does not have an unconditional right of access.

(2) "Account holder of interest" means any person, other than the obligor, who asserts an ownership interest in an account.

(3) "CFO" means the Chief Financial Officer of the District of Columbia.

(4) "Financial institution" means a:

(A) Depository institution, as defined in the Federal Deposit Insurance Act under 12 U.S.C. § 1813(c);

(B) Federal credit union or State credit union, as defined in the Federal Credit Union Act under 12 U.S.C. § 1752; or

(C) Benefit association, insurance company, safe deposit company, money market mutual fund, or similar entity doing business in the state that holds property or maintains accounts reflecting property belonging to others.

(5) "Obligor" means a person, whose property is subject to a tax lien.

(Sept. 14, 2011, D.C. Law 19-21, § 8082(b), 58 DCR 6226.)

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 47-305.02.

**Short title.** — Short title: Section 8081 of

D.C. Law 19-21 provided that subtitle I of title VIII of the act may be cited as "Bank Account Tax Offset Act of 2011".

*Subchapter VII. Responsible Officer.*

**§ 47-4491. Personal liability for failure to collect or pay tax.**

(a) An officer or director of a corporation, general partner of a partnership, or similar principal of a business shall, in addition to other penalties provided by law, be liable for a penalty equal to the tax, including interest and penalties thereon, not collected or paid to the District of Columbia for which the business is liable under § 47-1812.08 or Chapter 20 of this title. No other penalty shall be imposed under Chapter 42 of this title for a liability arising from application of this section.

(b) A penalty shall not be imposed under subsection (a) of this section unless the Mayor notifies the responsible person in writing by mail at the taxpayer's last known address, or in person, that the responsible person is subject to an assessment of the penalty. The mailing of the notice (or, in the case of such a notice delivered in person, the delivery) shall be given at least 30 days before the imposition of a penalty under subsection (a) of this section. If the Mayor finds that the collection of the penalty is in jeopardy, this subsection shall not apply.

(c) The penalty under subsection (a) of this section shall not be imposed if reasonable cause in accordance with § 47-4221 is established.

(d) The penalty under subsection (a) of this section shall not be imposed after the expiration of the period prescribed in § 47-4312 for the underlying tax liability.

(e) If more than one officer, director, general partner, or similar principal is liable for the penalty under subsection (a) of this section with respect to a tax, each officer, director, general partner, or similar principal who pays the penalty shall be entitled to recover from other officers, directors, general partners, or similar principals who are liable for the penalty an amount equal to the excess of the amount paid by the officer, director, general partner, or similar principal over his proportionate share of the penalty. A claim for recovery may be made only in a proceeding in which the District of Columbia is not a party.

(f)(1) A penalty shall not be imposed by subsection (a) of this section on an unpaid member of the board of trustees or directors of an organization exempt from tax under this title if the member:

(A) Is solely serving in an honorary capacity;

(B) Does not participate in the day-to-day or financial operations of the organization; and

(C) Does not have actual knowledge of the failure to pay tax for which the penalty is imposed.

(2) Paragraph (1) of this subsection shall not apply if no individual is liable for the penalty imposed by subsection (a) of this section.

(June 9, 2001, D.C. Law 13-305, § 405(b), 48 DCR 334.)

**Legislative history of Law 13-305.** — For Law 13-305, see notes under § 47-4401.



## CHAPTER 45. COLLEGE SAVINGS PROGRAM.

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47-4501. Definitions.

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## § 47-4501. Definitions.

For the purposes of this chapter, the term:

(1) "Account" means a college savings account established under § 47-4503.

(2) "Account owner" means the individual or organization who enters into a college savings agreement under this chapter establishing an account. The account owner may also be the designated beneficiary of the account.

(3) "Advisory Board" means the District of Columbia College Savings Program Advisory Board.

(4) "Designated beneficiary" shall have the same meaning as in section 529(e)(1) of the Internal Revenue Code [26 U.S.C. § 529(e)(1)].

(5) "Eligible institution" shall have the same meaning as "eligible educational institution" in section 529(e)(5) of the Internal Revenue Code [26 U.S.C. § 529(e)(5)].

(6) "Internal Revenue Code" means the Internal Revenue Code of 1986, approved October 22, 1986 (100 Stat. 2085; 26 U.S.C. § 1 et seq.).

(7) "Member of the family" shall have the same meaning as in section 529(e)(2) of the Internal Revenue Code [26 U.S.C. § 529(e)(2)].

(8) "Program" means the District of Columbia College Savings Program established under § 47-4502, including the Trust established therewith.

(9) "Qualified higher education expenses" shall have the same meaning as in section 529(e)(3) of the Internal Revenue Code [26 U.S.C. § 529(e)(3)].

(10) "Qualified withdrawal" means a withdrawal from an account to pay the qualified higher education expenses of the designated beneficiary of the account.

(11) "Trust" means the District of Columbia College Savings Program Trust established under § 47-4502.

(12) "Trustee" means the trustee of the District of Columbia College Savings Program Trust.

(Mar. 31, 2001, D.C. Law 13-212, § 2(b), 47 DCR 9457; June 5, 2003, D.C. Law 14-307, § 2402(b), 49 DCR 11664.)

**Effect of amendments.** — D.C. Law 14-307, in par. (2), substituted "individual or organization" for "individual"; rewrote pars. (4), (5), (7), (8), and (9); and added pars. (11) and (12).

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see 2(b) of College Savings Program Temporary

Act of 2002 (D.C. Law 14-186, October 1, 2002, law notification 49 DCR 9244).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2402(b) of Fiscal Year 2003 Budget Support Amendment Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) amendment of section, see § 2(b) of College Savings Program Emergency Act of 2002 (D.C. Act 14-374, May 20, 2002, 49 DCR 5114).

For temporary (90 day) amendment of section, see § 2402(b) of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of section, see § 2402(b) of Fiscal Year 2003 Budget Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

**Legislative history of Law 13-212.** — Law

13-212, the “College Savings Act of 2000”, was introduced in Council and assigned Bill No. 13-542, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on July 11, 2000, and October 3, 2000, respectively. Signed by the Mayor on October 30, 2000, it was assigned Act No. 13-464 and transmitted to both Houses of Congress for its review. D.C. Law 13-212 became effective on March 31, 2001.

**Legislative history of Law 14-307.** — For Law 14-307, see notes following § 47-903.

**References in text.** — Section 529 of the Internal Revenue Code, referred to in pars. (4), (5), (7), and (9), is classified to 26 U.S.C. § 529.

## § 47-4502. Program established.

There is established the District of Columbia College Savings Program, which authorizes the creation of college savings accounts to enable residents of the District of Columbia to benefit from the tax incentives provided for qualified tuition programs under the Internal Revenue Code. The Program shall be established as a trust and designated as the District of Columbia College Savings Program Trust. The District of Columbia College Savings Program Trust shall constitute an instrumentality of the District of Columbia. The Chief Financial Officer, or his or her designee, upon lawful delegation, shall serve as the Trustee of the District of Columbia College Savings Program Trust. The Trust shall continue in existence as long as it holds any deposits, payments, contributions, or other funds or has any obligations and until its existence is terminated by law. The Trust shall receive and hold all payments, deposits, and contributions intended for the Trust, gifts, bequests, endowments, federal and local grants, and any other funds from any public or private source, and all earnings thereon, until disbursed in accordance with this chapter. All amounts or funds deposited and held in the Trust shall constitute assets of the Trust and shall not be commingled with or revert to the general, special, emergency, or temporary funds of the District of Columbia at the end of any fiscal year or at any other time.

(Mar. 31, 2001, D.C. Law 13-212, § 2(b), 47 DCR 9457; June 5, 2003, D.C. Law 14-307, § 2402(c), 49 DCR 11664.)

**Effect of amendments.** — D.C. Law 14-307 rewrote the section which had read as follows: “There is established the District of Columbia College Savings Program, which authorizes the creation of college savings accounts to enable residents of the District of Columbia to benefit from the tax incentives provided for qualified state tuition programs under the Internal Revenue Code.”

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2402(c) of Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) amendment of section, see § 2402(c) of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of section, see § 2402(c) of Fiscal Year 2003 Budget Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

**Legislative history of Law 13-212.** — For Law 13-212, see notes under § 47-4501.

**Legislative history of Law 14-307.** — For Law 14-307, see notes following § 47-903.



**§ 47-4503. College savings accounts.**

(a) An account may be established by any person who desires to save money for the payment of qualified higher education expenses of a designated beneficiary by entering into a college savings agreement. An account shall not be held jointly.

(b) An application for an account shall be in the form prescribed by the Chief Financial Officer and contain the following information:

(1) The name, address, and social security number or employer identification number of the account owner;

(2) The designation of a designated beneficiary;

(3) The name, address, and social security number of the designated beneficiary;

(4) The certification relating to no excess contributions; and

(5) Such other information as the Chief Financial Officer may require.

(c) The Chief Financial Officer may establish a nominal fee for the application.

(d) Contributions to accounts shall be made only in cash.

(e) An account owner may withdraw all or part of the balance from an account upon 60 days notice or such shorter period as may be authorized by the Chief Financial Officer. The Chief Financial Officer shall promulgate regulations to determine whether a withdrawal is a nonqualified withdrawal or qualified withdrawal.

(f) An account owner may change the designated beneficiary of an account in accordance with procedures established by the Chief Financial Officer. A change in the designated beneficiary of an account shall not be treated as a withdrawal, if the new beneficiary is a member of the family of the former beneficiary.

(g) An account owner may transfer all or a portion of the balance of an account to another account under the Program or into another qualified tuition program for the benefit of the designated beneficiary or a member of the family of the designated beneficiary in accordance with procedures established by the Chief Financial Officer. A transfer to another qualified tuition program to the credit of the same designated beneficiary shall be treated as a withdrawal, if the transfer occurs within 12 months from the date of a previous transfer.

(h)-(k) Repealed.

(l) The Program shall provide a separate accounting for each designated beneficiary.

(m) No account owner or designated beneficiary shall be permitted to direct the investment of contributions to an account or the earnings on the account. This restriction shall be interpreted in accordance with applicable guidance issued by the Internal Revenue Service under section 529 of the Internal Revenue Code [26 U.S.C. § 529].

(n) An account owner or a designated beneficiary shall not use an interest in an account as security for a loan. A pledge of an interest in an account shall be void.

(o) The Chief Financial Officer shall promulgate regulations to prevent contributions on behalf of a designated beneficiary in excess of the amount

determined by actuarial estimates necessary to pay qualified higher education expenses. The regulations shall include a requirement that an excess balance with respect to a designated beneficiary be promptly withdrawn in a nonqualified withdrawal or transfer to another account.

(p) If there is a distribution from an account to an individual or for the benefit of an individual during a calendar year, the distribution shall be reported to the Internal Revenue Service by the account owner, the designated beneficiary, or the distributee to the extent required by federal law or regulation. Statements shall be provided to each account owner at least once each year within 60 days after the end of the 12-month period to which they relate. The statement shall identify the contributions made during a preceding 12-month period, the total contributions made to the account through the end of the period, the value of the account at the end of the period, distributions made during the period, and any other information that the Chief Financial Officer shall require to be reported to the account owner. Statements and information relating to accounts shall be prepared and filed to the extent required by federal and state tax law.

(q) A nonprofit organization described in § 501(c)(3) of the Internal Revenue Code may establish and become the account owner of an account to fund scholarships for persons whose identity will be determined upon disbursement. In the case of an account established under this subsection, the requirement that a designated beneficiary be designated when an account is opened shall not apply and each individual who receives an interest in the account as a scholarship shall be treated as a designated beneficiary with respect to the interest.

(r) An annual fee may be imposed upon the account owner for the maintenance of the account.

(s) The following information shall be disclosed to each account owner:

- (1) The terms and conditions for an account;
- (2) Restrictions on the substitution of designated beneficiaries;
- (3) The person or entity entitled to terminate the college savings agreement;
- (4) The terms and conditions under which money may be wholly or partially withdrawn from the Program, including charges and fees that may be imposed for withdrawal;
- (5) The probable tax consequences associated with contributions to, and distributions from, accounts; and
- (6) Other terms, conditions, and provisions considered necessary or appropriate by the Chief Financial Officer.

(Mar. 31, 2001, D.C. Law 13-212, § 2(b), 47 DCR 9457; June 5, 2003, D.C. Law 14-307, § 2402(d), 49 DCR 11664.)

**Effect of amendments.** — D.C. Law 14-307, in subsecs. (a), (f), and (m), a new sentence was added to the end of each subsection; subsec. (g) was rewritten; and subsecs. (h) through (k) were repealed.

For temporary (225 day) amendment of section, see 2(c) of College Savings Program Temporary Act of 2002 (D.C. Law 14-186, October 1, 2002, law notification 49 DCR 9244).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2402(d) of



Fiscal Year 2003 Budget Support Amendment Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) amendment of section, see § 2(c) of College Savings Program Emergency Act of 2002 (D.C. Act 14-374, May 20, 2002, 49 DCR 5114).

For temporary (90 day) amendment of section, see § 2402(d) of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of section, see § 2402(d) of Fiscal Year 2003 Budget Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

**Legislative history of Law 13-212.** — For Law 13-212, see notes under § 47-4501.

**Legislative history of Law 14-307.** — For Law 14-307, see notes following § 47-903.

**References in text.** — Section 529 of the Internal Revenue Code, referred to in subsec. (m), is classified to 26 U.S.C. § 529.

## § 47-4504. District of Columbia College Savings Program Advisory Board.

(a) The District of Columbia College Savings Program Advisory Board is established to advise the Chief Financial Officer on the administration of the Program, including public information and outreach, implementing regulations, investment policy, and procedures governing applications, account management, and the disbursement of funds. After the Program begins accepting contributions by Account Owners, the Advisory Board, upon notification from the Chief Financial Officer, shall meet at least annually to advise the Chief Financial Officer on the administration of the Program.

(b) The Advisory Board shall consist of 9 members: 6 public members and 3 ex officio members. The Mayor shall appoint 3 of the public members and the Council shall appoint 3 of the public members. The Mayor shall appoint one of the public members of the Advisory Board as Chairperson. The public members shall be residents of the District of Columbia who have significant experience in finance, accounting, investment management, higher education, or other areas that relate to the duties of the Advisory Board. The public members shall serve for 3-year terms, except that for the first 3 individuals appointed by the Mayor and the Council, respectively, one shall serve a one-year term, one shall serve a 2-year term, and one shall serve a 3-year term. The 3 ex officio members shall be the Chairman of the Council's Committee on Finance and Revenue, the State Education Officer, and the president of the University of the District of Columbia, or their respective designees.

(c) A member of the Advisory Board shall not receive compensation, but shall be entitled to reimbursement for reasonable travel-related expenses.

(Mar. 31, 2001, D.C. Law 13-212, § 2(b), 47 DCR 9457; June 5, 2003, D.C. Law 14-307, § 2402(e), 49 DCR 11664.)

**Effect of amendments.** — D.C. Law 14-307, in subsec. (a), added the last sentence.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2402(e) of Fiscal Year 2003 Budget Support Amendment Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) amendment of section, see § 2402(e) of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of section, see § 2402(e) of Fiscal Year 2003 Budget Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

**Legislative history of Law 13-212.** — For Law 13-212, see notes under § 47-4501.

**Legislative history of Law 14-307.** — For Law 14-307, see notes following § 47-903.

**§ 47-4505. Administration and initial implementation of the Program.**

(a) The Chief Financial Officer shall take such action as may be necessary to effectuate the Trust, issue regulations with respect to the Program, and in connection therewith, the Trust, and otherwise initiate the implementation and administration of the Program consistent with this chapter. The Chief Financial Officer shall continue to administer and maintain the Program in a manner to ensure that the Program continues to qualify as a qualified tuition program under section 529 of the Internal Revenue Code of 1986 [26 U.S.C. § 529].

(b) The Chief Financial Officer shall use the funds authorized in § 47-4503(c), § 47-4503(j) [(j) repealed], § 47-4503(r), and § 47-4506(b)(9) to pay for the staff and non-personal services needed to administer the Program.

(c) The Chief Financial Officer shall develop and implement the Program in a manner consistent with this chapter. To administer the Program, the Chief Financial Officer may:

(1) Retain the services of consultants, administrators, and other personnel, as necessary, to administer the Program;

(2) Execute contracts, college savings agreements, and other necessary instruments;

(3) Enter into agreements with eligible institutions of higher education and other public or private entities for the administration or promotion of the Program;

(4) Solicit and accept gifts, grants, loans, or other aid from any source or participate in any government program for purposes consistent with this chapter;

(5) Impose and collect reasonable administrative fees for a transaction involving college savings agreements and transactions affecting the Program;

(6) Procure insurance against a loss of assets of the Program;

(7) Endorse insurance coverage written exclusively for the purpose of protecting a college savings agreement and the account owner or designated beneficiary of the account;

(8) Designate terms under which money may be withdrawn from the Program;

(9) Establish the methods by which the funds held in accounts are disbursed;

(10) Establish additional procedural and substantive requirements for participation in, and the administration and promotion of, the Program;

(11) Seek rulings and other guidance from the Internal Revenue Service and agencies of the federal government relating to the Program;

(12) Make changes to the Program required for the participants in the Program to obtain the federal income tax benefits or treatment provided by § 529 of the Internal Revenue Code, or successor legislation; and

(13) Delegate any and all duties, obligations, responsibilities, rights, and powers assigned and granted to the Chief Financial Officer under this chapter to the Trustee to be carried out and exercised in his or her capacity as Trustee.



(Mar. 31, 2001, D.C. Law 13-212, § 2(b), 47 DCR 9457; June 5, 2003, D.C. Law 14-307, § 2402(f), 49 DCR 11664; Apr. 13, 2005, D.C. Law 15-354, § 73(p), 52 DCR 2638; Mar. 2, 2007, D.C. Law 16-191, § 48(h)(5), 53 DCR 6794.)

**Effect of amendments.** — D.C. Law 14-307, in the section name line, inserted “and initial implementation” after “Administration”; rewrote subsec. (a); in subsec. (c), made a nonsubstantive change in par. (12), and added par. (12). Prior to amendment, subsec. (a) had read as follows: “(a) The Chief Financial Officer shall take such action as may be necessary to effectuate the Trust, issue regulations with respect to the Program, and in connection therewith, the Trust, and otherwise initiate the implementation and administration of the Program consistent with this chapter. The Chief Financial Officer shall continue to administer and maintain the Program in a manner to ensure that the Program continues to qualify as a qualified tuition program under section 529 of the Internal Revenue Code of 1986.”

D.C. Law 16-191, in subsec. (c)(12), validated a previously made technical correction.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2402(f) of

Fiscal Year 2003 Budget Support Amendment Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) amendment of section, see § 2402(f) of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of section, see § 2402(f) of Fiscal Year 2003 Budget Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

**Legislative history of Law 13-212.** — For Law 13-212, see notes under § 47-4501.

**Legislative history of Law 14-307.** — For Law 14-307, see notes following § 47-903.

**Legislative history of Law 16-191.** — For Law 16-191, see notes following § 47-2845.

**References in text.** — Section 529 of the Internal Revenue Code, referred to in subsec. (a), is classified to 26 U.S.C. § 529.

## § 47-4506. Implementation of the Program.

(a) The Chief Financial Officer shall implement the Program through use of one or more financial organizations as account depositories and managers. Under the Program, individuals may establish accounts directly with an account depository.

(b) The Chief Financial Officer shall solicit proposals from financial organizations to act as account depositories or managers of the Program. The Chief Financial Officer shall promulgate regulations that establish a procedure to, from time to time, review the method by which financial organizations are selected. Financial organizations submitting proposals shall describe the investment instrument which will be used in accounts. The Chief Financial Officer may select as account depositories or managers one or more financial organizations that demonstrate the most advantageous combination, both to potential program participants and the District of Columbia, from among the following factors:

- (1) Financial stability and integrity of the financial organization;
- (2) The safety of the investment instrument being offered;
- (3) The ability of the investment instrument to track increasing costs of higher education;
- (4) The ability of the financial organization to satisfy recordkeeping and reporting requirements;
- (5) The financial organization's plan for promoting the Program and the investment it is willing to make to promote the Program;
- (6) The fees, if any, proposed to be charged to persons for opening accounts;

(7) The minimum initial deposit and minimum contributions that the financial organization will require;

(8) The ability of banking organization to accept electronic withdrawals, including payroll deduction plans; and

(9) Other benefits to the District of Columbia or its residents included in the proposal, including fees payable to the District of Columbia to pay the expenses of the operation of the Program.

(c) Repealed.

(d) A management contract shall include terms requiring the financial organization to:

(1) Take any action required to keep the Program in compliance with requirements of § 47-4503 and not to take any action which would disqualify the Program as a qualified state tuition plan under § 529 of the Internal Revenue Code;

(2) Keep adequate records of each account, keep each account segregated from each other account, and provide the Chief Financial Officer with the information necessary to prepare the statements required by § 47-4503.

(3) Compile information contained in statements provided to account owners;

(4) If there is more than one program manager, provide the Chief Financial Officer with the information necessary to determine compliance with § 47-4503.

(5) Provide the Chief Financial Officer, or its designee, access to the books and records of the program manager to the extent needed to determine compliance with the contract;

(6) Hold all accounts for the benefit of the account owner;

(7) Be audited at least annually by a firm of certified public accountants;

(8) Provide the Chief Financial Officer with copies of all regulatory filings and reports made by the financial organization during the term of the management contract or while it is holding any accounts, other than confidential filings or reports that will not become part of the Program. The program manger [manager] shall make available for review by the Chief Financial Officer the results of any periodic examination of the manager by a federal banking, insurance, or securities commission, except to the extent the report may not be disclosed under applicable law or the rules of the commission; and

(9) Ensure that any description of the Program, whether in writing or through the use of other media, is consistent with the marketing plan developed by the Chief Financial Officer.

(e) The Chief Financial Officer may provide that an audit may be conducted of the operations and financial positions of the program depository or manager at any time if the Chief Financial Officer has reason to be concerned about the financial position, the recordkeeping practices, or the status of accounts of the program depository and manager.

(f) During the term of a contract with a program manager, the Chief Financial Officer shall conduct an examination of the manager and its handling of accounts. The examination shall be conducted at least biennially if the manager is not otherwise subject to periodic examination by the Mayor, the Federal Deposit Insurance Corporation, or other similar entity.



(g) If selection of a financial organization as a program manager or depository is not renewed, after the end of its term:

- (1) No new accounts may be placed with the financial organization;
- (2) Accounts previously established and held in investment instruments at the financial organization shall be terminated;
- (3) If accounts are not terminated, additional contributions may be made to the accounts; and
- (4) Existing accounts held by the depository shall remain subject to all oversight and reporting requirements established by the Chief Financial Officer.

(h) If the Chief Financial Officer terminates a financial organization as a program manager or depository, the Chief Financial Officer shall cause the accounts to be transferred to another financial organization that is selected as a program manager or depository and into investment instruments as similar to the original instruments as possible.

(i) The Chief Financial Officer:

- (1) Shall preserve, invest, and expend the assets of the Program solely for the purposes of this chapter; and
- (2) Shall not loan, transfer, or use the assets of the Program for any other purpose than as provided in this chapter.

(Mar. 31, 2001, D.C. Law 13-212, § 2(b), 47 DCR 9457; June 5, 2003, D.C. Law 14-307, § 2402(g), 49 DCR 11664.)

**Effect of amendments.** — D.C. Law 14-307 repealed subsec. (c) which had read as follows: “(c) Until the Internal Revenue Service has provided guidance that the provision to a contributor of the choice of 2 or more investment instruments under a qualified state tuition program will not disqualify the program for favorable tax treatment under § 529 of the Internal Revenue Code, no management contract entered into by the Chief Financial Officer shall provide for more than one type of investment instrument.”

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see § 2(d) of College Savings Program Temporary Act of 2002 (D.C. Law 14-186, October 1, 2002, law notification 49 DCR 9244).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2(d) of College Savings Program Emergency Act of

2002 (D.C. Act 14-374, May 20, 2002, 49 DCR 5114).

For temporary (90 day) amendment of section, see § 2402(g) of Fiscal Year 2003 Budget Support Amendment Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) repeal of section, see § 2402(g) of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of section, see § 2402(g) of Fiscal Year 2003 Budget Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

**Legislative history of Law 13-212.** — For Law 13-212, see notes under § 47-4501.

**Legislative history of Law 14-307.** — For Law 14-307, see notes following § 47-903.

## § 47-4507. Program limitations.

(a) Nothing in this chapter shall be construed to:

- (1) Confer upon a designated beneficiary rights or legal interest with respect to an account unless the designated beneficiary is the account owner;
- (2) Guarantee that a designated beneficiary will be admitted to an institution of higher education;

(3) Create residency for an individual merely because the individual is a designated beneficiary; or

(4) Guarantee that amounts saved under the Program will be sufficient to cover the qualified higher education expenses of a designated beneficiary.

(b) Nothing in this chapter shall create, or be construed to create, an obligation or guarantee of the District of Columbia, its agencies or instrumentalities, or the Chief Financial Officer, for the benefit of an account owner or designated beneficiary with respect to:

(1) The rate of interest or other return on an account; and

(2) The payment of interest or other return on an account.

(c) Every contract, application, deposit slip, or other similar document that may be used in connection with a contribution to an account shall clearly indicate that the account is not insured by the District of Columbia and that the principal deposited to, or the investment return on, an account is not guaranteed by the District of Columbia.

(Mar. 31, 2001, D.C. Law 13-212, § 2(b), 47 DCR 9457.)

**Legislative history of Law 13-212.** — For Law 13-212, see notes under § 47-4501.

## § 47-4508. Residency requirement. [Repealed].

Repealed.

(Mar. 31, 2001, D.C. Law 13-212, § 2(b), 47 DCR 9457; June 5, 2003, D.C. Law 14-307, § 2402(h), 49 DCR 11664.)

**Temporary Repeal of Section.** — For temporary (225 day) repeal of section, see § 2(e) of College Savings Program Temporary Act of 2002 (D.C. Law 14-186, October 1, 2002, law notification 49 DCR 9244).

**Emergency legislation.** — For temporary (90 day) repeal of section, see § 2402(h) of Fiscal Year 2003 Budget Support Amendment Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) repeal of section, see § 2(e) of College Savings Program Emergency Act of 2002 (D.C. Act 14-374, May 20, 2002, 49 DCR 5114).

For temporary (90 day) repeal of section, see § 2402(h) of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) repeal of section, see § 2402(h) of Fiscal Year 2003 Budget Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

**Legislative history of Law 13-212.** — For Law 13-212, see notes under § 47-4501.

**Legislative history of Law 14-307.** — For Law 14-307, see notes following § 47-903.

## § 47-4509. Local tax exemption.

(a) An account owner who files an income tax return in the District of Columbia may claim a deduction in an annual amount not to exceed \$4,000 for contributions made to all accounts under the Program. With respect to married individuals (or domestic partners registered under § 32-702) filing a joint return, each married individual (or domestic partner registered under § 32-702) may claim a deduction in an annual amount not to exceed \$4,000 for contributions made to all accounts under the Program for which the married



individual (or domestic partner registered under § 32-702) is the account owner.

(b) If an amount greater than \$4,000 is contributed to one or more accounts in a tax year, the excess may be carried forward as a deduction, subject to the annual limit, for 5 years.

(c) Any deduction taken under this section shall be subject to recapture with respect to a withdrawal or rollover taken within 2 years of the establishment of the account for any reason other than provided in subsection (d) of this section. In addition, notwithstanding the statute of limitations on assessments in § 47-912 [repealed], any deduction taken under this section shall be subject to recapture in the taxable year in which the withdrawal or rollover is made after 2 years of the establishment of the account for any reason other than provided in subsection (d) of this section or to transfer to another qualified tuition program.

(d) Deductions taken under this section shall not be subject to recapture as provided in subsection (c) of this section if:

- (1) The funds are used to pay for qualified higher education expenses;
- (2) The beneficiary dies, develops a disability, or receives a scholarship;
- (3) The beneficiary receives a scholarship; provided, that the exemption shall be limited to the amount of the scholarship; or
- (4) The funds are transferred to another account maintained under the Program.

(e) Subject to subsection (f) of this section, earnings on accounts shall be exempt from District of Columbia income taxation.

(f) Qualified withdrawals shall be exempt from District of Columbia income taxation. The portion of any other withdrawal that is attributable to account earnings shall be subject to District of Columbia income taxation in the year in which the withdrawal is made.

(Mar. 31, 2001, D.C. Law 13-212, § 2(b), 47 DCR 9457; June 5, 2003, D.C. Law 14-307, § 2402(i), 49 DCR 11664; Mar. 14, 2007, D.C. Law 16-292, § 2(i), 54 DCR 1080; Apr. 24, 2007, D.C. Law 16-305, § 73(j), 53 DCR 6198; May 13, 2008, D.C. Law 17-153, § 2, 55 DCR 3460; Mar. 25, 2009, D.C. Law 17-353, § 172(e)(3), 56 DCR 1117.)

**Effect of amendments.** — D.C. Law 14-307 rewrote the section which had read as follows: "Contributions made by account owners to, and earnings on, accounts shall be exempt from District of Columbia income taxation."

D.C. Law 16-292, in subsec. (a), substituted "married individuals (or domestic partners registered under § 32-702)" for "married individuals" and "married individual (or domestic partner registered under § 32-702)" for "married individual".

D.C. Law 16-305, in subsec. (d)(2), substituted "has a disability" for "becomes disabled".

D.C. Law 17-153, in subsecs. (a) and (b), substituted "\$4,000" for "\$3,000".

D.C. Law 17-353, in subsec. (d)(2), substi-

tuted "develops a disability" for "has a disability".

**Temporary Amendment of Section.** — For temporary (225 day) amendment of section, see 2(b) of College Savings Program Temporary Act of 2002 (D.C. Law 14-186, October 1, 2002, 49 DCR 9244).

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2402(i) of Fiscal Year 2003 Budget Support Amendment Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) amendment of section, see § 2(f) of College Savings Program Emergency Act of 2002 (D.C. Act 14-374, May 20, 2002, 49 DCR 5114).

For temporary (90 day) amendment of section, see § 2402(i) of the Fiscal Year 2003 Budget Support Amendment Congressional Review Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of section, see § 2402(i) of Fiscal Year 2003 Budget Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

**Legislative history of Law 13-212.** — For Law 13-212, see notes under § 47-4501.

**Legislative history of Law 14-307.** — For Law 14-307, see notes following § 47-903.

**Legislative history of Law 16-292.** — For Law 16-292, see notes following § 47-1801.04.

**Legislative history of Law 16-305.** — For Law 16-305, see notes following § 47-802.

**Legislative history of Law 17-153.** — Law 17-153 the “College Savings Program Increased Tax Benefit Act of 2008”, was introduced in Council and assigned Bill No. 17-235 which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on February 5, 2008, and March 4, 2008, respectively. Signed by the Mayor on March 19, 2008, it was assigned Act No. 17-325 and transmitted to both Houses of Congress for its review. D.C. Law 17-153 became effective on May 13, 2008.

**Legislative history of Law 17-353.** — For Law 17-353, see notes following § 47-308.

**Editor’s notes.** — Section 3 of D.C. Law 17-153 provided: “This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.”

## § 47-4510. Seizure of accounts prohibited.

A person may not attach, execute, garnish, or otherwise seize a current or future benefit under a higher education tuition savings account or an asset of the Program.

(Mar. 31, 2001, D.C. Law 13-212, § 2(b), 47 DCR 9457.)

**Legislative history of Law 13-212.** — For Law 13-212, see notes under § 47-4501.

## § 47-4511. Payroll deductions.

The District of Columbia and its agencies may agree, by contract or otherwise, to remit payments on behalf of an employee to an account through payroll deductions.

(Mar. 31, 2001, D.C. Law 13-212, § 2(b), 47 DCR 9457.)

**Legislative history of Law 13-212.** — For Law 13-212, see notes under § 47-4501.

## § 47-4512. Audit of Program.

(a) The Mayor shall audit the Program annually.

(b)(1) Within 90 days after the close of each fiscal year, the Chief Financial Officer shall submit to the Council and the Advisory Board a report, which shall include:

(A) The Mayor’s audit report for the year;

(B) A financial accounting of the Program, including:

(i) The operating and administrative budget for the Program, which shall include a complete list of revenue sources and expenditures detailing the line-item expenditures;

(ii) The number of accounts entered into during the previous fiscal year;



(iii) Efforts by the Chief Financial Officer in marketing the Program; and

(iv) Any recommendations of the Chief Financial Officer concerning the operation of the Program.

(2) The Chief Financial Officer shall make available to each account owner a copy of a summary of the report and the option to purchase the full report at a nominal charge.

(Mar. 31, 2001, D.C. Law 13-212, § 2(b), 47 DCR 9457; June 5, 2003, D.C. Law 14-307, § 2402(j), 49 DCR 11664.)

**Effect of amendments.** — D.C. Law 14-307, in subsec. (b)(1), inserted “and the Advisory Board” after “Council”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2402(j) of Fiscal Year 2003 Budget Support Amendment Emergency Act of 2002 (D.C. Act 14-544, December 4, 2002, 49 DCR 11700).

For temporary (90 day) amendment of section, see § 2402(j) of the Fiscal Year 2003 Budget Support Amendment Congressional Re-

view Emergency Act of 2003 (D.C. Act 15-27, February 24, 2003, 50 DCR 2151).

For temporary (90 day) amendment of section, see § 2402(j) of Fiscal Year 2003 Budget Support Amendment Second Congressional Review Emergency Act of 2003 (D.C. Act 15-103, June 20, 2003, 50 DCR 5499).

**Legislative history of Law 13-212.** — For Law 13-212, see notes under § 47-4501.

**Legislative history of Law 14-307.** — For Law 14-307, see notes following § 47-903.

## CHAPTER 46. SPECIAL TAX INCENTIVES.

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| <p>Sec.</p> <p>47-4601. Lincoln Square Theater sales and use tax exemption.</p> <p>47-4602. Tax credit to CareFirst for wages to qualified employees; sales tax exemption for construction.</p> <p>47-4603. Jenkins Row development project-tax exemptions.</p> <p>47-4604. Lot 878, square 456 personal property tax and sales tax exemption.</p> <p>47-4605. Carver 2000 Low-Income and Senior Housing Project — Tax exemptions.</p> <p>47-4606. Brentwood Retail Center, 1060 Brentwood Road, N.E.; lot 57, square 3848.</p> <p>47-4607. Parkside Terrace development project-tax exemptions.</p> <p>47-4608. DC-USA development project-tax exemptions.</p> <p>47-4609. New Convention Center Hotel project-deed and recordation tax exemption.</p> <p>47-4610. Georgia Commons; Lots 848 and 849, Square 2906.</p> <p>47-4611. Payments in lieu of taxes, Capper/Carrollsborg PILOT Area.</p> <p>47-4612. Constitution Square development project tax abatements.</p> <p>47-4613. Payments in lieu of taxes, Rhode Island Metro Plaza PILOT Area; sales tax exemption.</p> <p>47-4614. East of the river hospital tax exemptions.</p> <p>47-4615. Abatement of real property taxes for National Public Radio, Inc.</p> <p>47-4616. Payments in lieu of taxes, Southwest Waterfront PILOT/TIF Area.</p> <p>47-4617. Sales tax exemption for sales to Close Up Foundation.</p> <p>47-4618. Eckington One Residential Project tax exemptions.</p> <p>47-4619. Abatement of real property taxes for the temporary Walker Jones/Northwest One Unity Health Center.</p> <p>47-4620. St. Martin's Apartments project tax exemptions.</p> <p>47-4621. Gateway Market Center and Residences, 1240 — 1248 4th Street, N.E., Lots 5, 800, 802, and 809, and Parcels 129/9 and 129/32, Square 3587 real property tax abatement and sales tax exemption.</p> <p>47-4622. Sales and use tax credit for the National Law Enforcement Museum.</p> <p>47-4623. View 14 Project tax exemption.</p> <p>47-4624. The Urban Institute — 10-year real property tax abatement.</p> | <p>Sec.</p> <p>47-4625. Kelsey Gardens redevelopment project.</p> <p>47-4626. Randall School development project tax exemption.</p> <p>47-4627. 14W and the YMCA Anthony Bowen Project; Lot 164 (formerly Lots 18, 19, 20, 120, 121, 160, 161, 828, and 835), Square 234.</p> <p>47-4628. The Heights on Georgia Avenue; Lots 98, 903, 904, 908, and 911, Square 2892.</p> <p>47-4629. Park Place at Petworth, Highland Park, and Highland Park Phase II Project tax exemptions.</p> <p>47-4630. Tax abatements for high technology commercial real estate database and service providers.</p> <p>47-4631. OTO Hotel at Constitution Square Project—tax exemptions [Not funded].</p> <p>47-4632. Campbell Heights project; Lot 0207, Square 0204.</p> <p>47-4633. Jubilee Housing residential rental project; Lot 863 in Square 2560, and Lot 873, Square 2563.</p> <p>47-4634. Third &amp; H Streets, N.E. development project—tax exemptions.</p> <p>47-4635. UNCF — 10-year real property tax abatement [Not funded].</p> <p>47-4636. First Congregational United Church of Christ property tax abatement.</p> <p>47-4637. The Pew Charitable Trusts — 30-year limited real property tax abatement.</p> <p>47-4638. 2323 Pennsylvania Avenue, S.E., redevelopment project.</p> <p>47-4639. King Towers residential housing rental project; Lot 49, Square 281.</p> <p>47-4640. Payments in lieu of taxes, Center Leg Freeway (Interstate 395) PILOT Area.</p> <p>47-4641. Allen Chapel A.M.E. Senior Residential Rental Project; Lots 0024, 0025, 0026, 0038, 0214, 0215, 0923, 0924, and 0925, Square 5730.</p> <p>47-4642. St. Paul Senior Living at Wayne Place; Lot 0045, Square 6118.</p> <p>47-4643. 800 Kenilworth Avenue Northeast redevelopment project.</p> <p>47-4644. Thirteenth Church of Christ real property tax relief. [Not funded].</p> <p>47-4645. [Reserved].</p> <p>47-4646. NCBA Housing Development Corporation of the District of Columbia and Samuel J. Simmons NCBA Estates No. 1 Limited Partnership; Lot 78, Square 2855. [Not funded].</p> |
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- 47-4647. 1029 Perry Street, N.E.; Lots 20 and 842, Square 3883. [Not funded].
- 47-4648. Abatement of real property taxes for 2 M Street, N.E.
- 47-4649. Abatement of real property taxes for 4427 Hayes Street, N.E.
- 47-4650. International House of Pancakes Restaurant #3221 Tax Exemption Clarification.
- 47-4651. Central Union Mission; Lots 825, 826, 830, and 831, Square 2895.

Sec.

- 47-4652. Abatement of real property taxes for Adams Morgan Hotel.
- 47-4653. Universal Holiness Church property tax relief.
- 47-4654. Beulah Baptist Church, Dix Street Corridor Senior Housing LP, et al. equitable tax relief.
- 47-4655. The Washington Ballet, Lot 19, Square 1911.

## § 47-4601. Lincoln Square Theater sales and use tax exemption.

Beginning June 1, 2003, and ending May 31, 2008, sales of tangible personal property, not to exceed the aggregate amount of \$800,000, to be incorporated into or consumed in the renovation of the Lincoln Square Theater shall be exempt from taxation under Chapter 20 and Chapter 22 of this title. For the purposes of this section, the term "Lincoln Square Theater" means an 8-screen motion picture theater consisting of approximately 1,100 seats and comprising approximately 40,000 square feet, located in square 374, lot 22, in the District of Columbia and owned and operated by Silver Cinemas Acquisition Company.

(Apr. 5, 2005, D.C. Law 15-269, § 2(b), 52 DCR 475; Mar. 2, 2007, D.C. Law 16-191, § 83, 53 DCR 6794.)

**Effect of amendments.** — D.C. Law 16-191 substituted "of this title" for "of this title" following "Chapter 22".

**Temporary Addition of Section.** — For temporary (225 day) addition of section, see 2(b) of Lincoln Square Theater Sales and Use Tax Exemption Temporary Act of 2003 (D.C. Law 15-37, October 28, 2003, law notification 50 DCR 9490).

**Emergency legislation.** — For temporary (90 day) addition, see § 2 of Lincoln Square Theater Sales and Use Tax Exemption Emergency Act of 2003 (D.C. Act 15-95, June 20, 2003, 50 DCR 5467).

For temporary (90 day) addition, see § 2(b) of Lincoln Square Theater Sales and use Tax Exemption Congressional Review Emergency Act of 2003 (D.C. Act 15-147, September 22, 2003, 50 DCR 8353).

For temporary (90 day) addition, see § 2 of Atlanta Coast Conference Tournament Ticket

Tax Clarification Emergency Act of 2005 (D.C. Act 16-52, March 17, 2005, 52 DCR 3168).

For temporary (90 day) amendment of section, see § 15 of Finance and Revenue Technical Amendments Second Emergency Amendment Act of 2006 (D.C. Act 16-585, December 28, 2006, 54 DCR 340).

**Legislative history of Law 15-269.** — Law 15-269, the "Lincoln Square Theater Sales and Use Tax Exemption Act of 2004", was introduced in Council and assigned Bill No. 15-192, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 9, 2004, and December 7, 2004, respectively. Signed by the Mayor on December 29, 2004, it was assigned Act No. 15-654 and transmitted to both Houses of Congress for its review. D.C. Law 15-269 became effective on April 5, 2005.

**Legislative history of Law 16-191.** — For Law 16-191, see notes following § 47-2425.

## § 47-4602. Tax credit to CareFirst for wages to qualified employees; sales tax exemption for construction.

(a) For the purposes of this section, the term:

- (1) "CareFirst" means CareFirst, Inc., a Maryland non-stock corporation,

which is the sole member of Blue Cross Blue Shield of the National Capital Area and licensed to do business in the District as Group Hospitalization and Medical Services, Inc.

(2) "CareFirst Project" means the acquisition, construction, installing, and equipping of an office complex located at 840 First Street, N.E., and designated as square 675, lot 848 (Record lot 297), consisting of:

- (A) An approximately 244,000 square foot office building;
- (B) Parking of approximately 200 spaces; and
- (C) Other auxiliary improvements.

(3) "Qualified employee" means an individual subject to the District's personal income tax who is not currently employed in a facility owned or operated by CareFirst and is hired to fill a position of indefinite duration consisting of a minimum of 35 hours per week for not less than 50 weeks per year, which position is created by CareFirst.

(4) "Tax year" means any calendar year or portion of a calendar year in which District income taxes are due and payable.

(b)(1) Subject to the limitations of paragraphs (2), (3), (4), and (5) of this section, for 5 consecutive tax years beginning with the first tax year during which the CareFirst Project is occupied, for each qualified employee hired by CareFirst that exceeds the number of employees employed by CareFirst during the immediately preceding tax year, commencing after December 31, 2002, and that otherwise meets the requirements of this section, CareFirst shall be allowed a credit against the tax imposed by § 47-1807.02 not to exceed \$1,000 for each qualified employee hired. Notwithstanding the foregoing, a credit shall not be allowed for qualified employees hired after December 31, 2005.

(2) The aggregate amount of credits earned by CareFirst under this subsection shall be determined as of the last calendar day of the first year in which the credit is sought. The maximum annual credit allowed under this section shall not exceed:

(A) Fifty percent of the wages paid to qualified employees during the tax year in which the credit is claimed pursuant to paragraph (6) of this subsection; or

(B) The total of franchise, personal property, and income taxes imposed on the CareFirst during the tax year in which the credit is sought.

(3) Allocations of credits shall:

(A) Be made over 60 consecutive months, commencing with the respective month in which each qualified employee is hired;

(B) Be allowed ratably for each qualified employee in accordance with the number of months the qualified employee is employed at the CareFirst Project during the tax year for which the credit is sought; and

(C) Terminate the earlier of:

- (i) The 5th anniversary of the date of its commencement;
- (ii) The date that CareFirst fails to meet the respective annual certification of compliance requirements of subsection (g) of this section; or
- (iii) The date of the filing of a petition in bankruptcy in connection with CareFirst's business.

(4) A credit that is allowed but unusable for the tax year in which it



accrues may be carried forward for 5 tax years, but no credits shall be carried back.

(5) A credit shall not be allowed if:

(A) CareFirst pays the qualified employee less than the greater of the legal minimum wage and the wage that CareFirst pays other employees in similar jobs;

(B) CareFirst accords the qualified employee less benefits or rights than it accords other employees in similar jobs; or

(C) The qualified employee:

(i) Is a member of the board of directors of CareFirst;

(ii) Directly or indirectly owns 5% or more of its stock; or

(iii) Is related to a member of the board of directors or owner of 5% or more of its stock as a spouse or as a relative who is a dependent as defined in section 152 of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 43; 26 U.S.C. § 152), without regard to income.

(6) The credit shall be claimed by attaching a worksheet and affidavit to the taxpayer's annual return. The affidavit shall set forth the basis for and the amount of the credit claimed and the amount of the credit allowed for each preceding year that the credit was claimed and shall be signed under penalty of perjury. The affidavit shall be in the following form:

"After reasonable investigation, the undersigned has determined that CareFirst:

"(1) Has met and intends to continue to meet the requirements applicable to its receipt of tax benefits of the type and in the amount requested;

"(2) Is in compliance with terms of all public benefit agreements entered into with the District, including, but not limited to, the First Source Employment Agreement with the District of Columbia Department of Employment Services and the Memorandum of Understanding with the District of Columbia Office of Local Business Development;

"(3) Is not now receiving and does not now have pending any other application for abatement of real property tax liability or an allowance of tax credits in connection with a single property, qualified employee, or financial contribution made pursuant to any other provision of District law;

"(4) Is not delinquent in the payment of taxes, fees, or other indebtedness to the District; and

"(5) Is not in violation of the applicable laws and regulations of the District."

(c) Gross receipts from the sales of tangible personal property to be incorporated or consumed in the course of construction of the CareFirst Project shall be exempt from the tax imposed by Chapter 20 of this title. The amount of all taxes, fees, and deposits exempted, abated, or waived under this subsection shall not exceed \$2 million.

(Apr. 5, 2005, D.C. Law 15-265, § 2, 52 DCR 464; Mar. 2, 2007, D.C. Law 16-191, §§ 84, 85, 53 DCR 6794.)

**Effect of amendments.** — D.C. Law 16-191 substituted “of this title” for “[of this title]” following “Chapter 20”; and validated a previously made technical correction in the section heading.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 16 of Finance and Revenue Technical Amendments Second Emergency Amendment Act of 2006 (D.C. Act 16-585, December 28, 2006, 54 DCR 340).

**Legislative history of Law 15-265.** — Law 15-265, the “CareFirst Economic Assistance Act

of 2004”, was introduced in Council and assigned Bill No. 15-75, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 9, 2004, and December 7, 2004, respectively. Signed by the Mayor on January 3, 2005, it was assigned Act No. 15-650 and transmitted to both Houses of Congress for its review. D.C. Law 15-265 became effective on April 5, 2005.

**Legislative history of Law 16-191.** — For Law 16-191, see notes following § 47-2425.

### § 47-4603. Jenkins Row development project-tax exemptions.

(a) For the purposes of this section, the term:

(1) “Developer Sponsor” means JPI Apartment Development, LP, its successors, affiliates, and assigns.

(2) “Jenkins Row project” means the acquisition, development, construction, installation, and equipping, including the financing, refinancing, or reimbursing of costs incurred therefor, of the mixed-use apartment house and garage project located on the Jenkins Row property, consisting of:

(A) Approximately a 247-unit residential condominium/apartment house;

(B) Approximately 52,000 square feet of retail space;

(C) A garage for approximately 400 to 500 cars; and

(D) Other ancillary improvements, including an associated supermarket.

(3) “Jenkins Row property” means the real property, including any improvements thereon, located in Square 1045, Lots 132, 133, 134, 135, 136, 137, 834, 835, 838, and 839 (or as the land for such lots may be subdivided into a record lot or lots or assessment and taxation lots in the future).

(b) The Jenkins Row project shall be exempt from the tax imposed by §§ 42-1102 and 47-903.

(c) The sales and rental of tangible personal property to be incorporated in or consumed in the Jenkins Row project, whether or not the sale, rental, or nature of the material or tangible personal property is incorporated as a permanent part of the Jenkins Row project or the Jenkins Row property, shall be exempt from the tax imposed by § 47-2002.

(d)(1) The Jenkins Row property shall be exempt from the tax imposed by Chapter 8 of this title.

(2) The real property tax exemption granted by paragraph (1) of this subsection shall only apply for the 10 consecutive real property tax years beginning in the tax year in which the Developer Sponsor begins development on the Jenkins Row property.

(e) The exemptions pursuant to subsections (c) and (d) of this section shall be in addition to, and not in lieu of, any other tax relief or assistance from any other source applicable to the Jenkins Row Project or the Jenkins Row property and shall not exceed, in the aggregate, \$3 million.



(f) This section shall not prevent or restrict the Developer Sponsor from utilizing any other tax, development, or other economic incentives available to the Jenkins Row project or the Jenkins Row property, including an associated supermarket, which other tax, development, or other economic incentives shall include the supermarket tax incentives set forth in Chapter 38 of this title.

(Apr. 8, 2005, D.C. Law 15-294, § 2(b), 52 DCR 1476; Mar. 2, 2007, D.C. Law 16-191, § 86, 53 DCR 6794.)

**Effect of amendments.** — D.C. Law 16-191, in subsec. (d), substituted “of this title” for “of this title” following “Chapter 8”; and, in subsec. (f), substituted “[of this title]” for “of this title” following “Chapter 38”.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 17 of Finance and Revenue Technical Amendments Second Emergency Amendment Act of 2006 (D.C. Act 16-585, December 28, 2006, 54 DCR 340).

**Legislative history of Law 15-294.** — Law 15-294, the “Jenkins Row Economic Develop-

ment Act of 2004”, was introduced in Council and assigned Bill No. 15-883, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 9, 2004, and December 7, 2004, respectively. Signed by the Mayor on January 4, 2005, it was assigned Act No. 15-690 and transmitted to both Houses of Congress for its review. D.C. Law 15-294 became effective on April 8, 2005.

**Legislative history of Law 16-191.** — For Law 16-191, see notes following § 47-2425.

## § 47-4604. Lot 878, square 456 personal property tax and sales tax exemption.

(a) The personal property of any organization that is wholly-owned by a legitimate theater company, which is a District of Columbia nonprofit corporation, and that acquires any portion of the lot that is designated, as of October 1, 2003, as lot 878 in square 456 in the District of Columbia, shall be exempt from the tax imposed by Chapter 15 of this title to the same extent as if the personal property was owned by the legitimate theater company.

(b) Sales to any organization that is wholly-owned by a legitimate theater company, which is a District of Columbia nonprofit corporation, and that acquires any portion of the lot that is designated, as of October 1, 2003, as lot 878 in square 456 in the District of Columbia, shall be exempt from the tax imposed by Chapter 20 of this title to the same extent as if the sale was made to the legitimate theater company.

(Apr. 12, 2005, D.C. Law 15-333, § 2(b), 52 DCR 2010; Mar. 2, 2007, D.C. Law 16-191, § 87, 53 DCR 6794.)

**Effect of amendments.** — D.C. Law 16-191, in subsec. (a), substituted “of this title” for “[of this title]” following “Chapter 15”; and, in subsec. (b), substituted “of this title” for “[of this title]” following “Chapter 20”.

**Emergency legislation.** — For temporary (90 day) ticket tax exemption, see § 2 of Atlanta Coast Conference Tournament Ticket Tax Clarification Emergency Act of 2005 (D.C. Act 16-52, March 17, 2005, 52 DCR 3168).

For temporary (90 day) amendment of section, see § 18 of Finance and Revenue Technical Amendments Second Emergency Amendment Act of 2006 (D.C. Act 16-585, December 28, 2006, 54 DCR 340).

**Legislative history of Law 15-333.** — For Law 15-333, see notes following § 47-1002.

**Legislative history of Law 16-191.** — For Law 16-191, see notes following § 47-2425.

**§ 47-4605. Carver 2000 Low-Income and Senior Housing Project — Tax exemptions.**

(a) For the purposes of this section, the term “Carver 2000 Low-Income and Senior Housing Project” means the financing, refinancing, or reimbursing of costs incurred for the acquisition, development, construction, installation, and equipping of the mixed-use 176 units of apartment and town homes for senior citizens and low-income residents of the District of Columbia, located in the following squares and lots: 5140-0888; 5190-0807; 5190-0808; 5348-0001; 5348-0002; 5348-0003; 5348-0004; 5348-0005; 5348-0006; 5348-0007; 5348-0008, and consisting of:

(1) Land and improvements that are to be renovated into approximately 176 units of apartments and town homes for senior citizens and low-income families; and

(2) All common areas and ancillary improvements identified in any pre-existing financing agreements supporting the development of low-income and senior housing in the lots and squares identified in this subsection.

(b) The Carver 2000 Low-Income and Senior Housing Project shall be exempt from the tax imposed by §§ 42-1102 and 47-903.

(c) The sales and rental of tangible personal property to be incorporated in or consumed in the Carver 2000 Low-Income and Senior Housing Project, whether or not the sale, rental, or nature of the material or tangible personal property is incorporated as a permanent part of the Carver 2000 Low-Income and Senior Housing Project or the Carver 2000 Low-Income and Senior Housing Project property, shall be exempt from the tax imposed by § 47-2002.

(d)(1) The Carver 2000 Low-Income and Senior Housing Project property shall be exempt from the tax imposed by Chapter 8 of this title, and any related fees waived.

(2) The real property tax exemption and fee waived granted by paragraph (1) of this subsection shall apply for the 16 consecutive real property tax years beginning with Tax Year 2003.

(e) The exemptions pursuant to subsections (c) and (d) of this section shall be in addition to, and not in lieu of, any other tax relief or assistance from any other source applicable to the Carver 2000 Low-Income and Senior Housing Project or the Carver 2000 Low-Income and Senior Housing Project.

(Oct. 20, 2005, D.C. Law 16-33, § 1172(b), 52 DCR 7503; Mar. 2, 2007, D.C. Law 16-191, § 5(e), 53 DCR 6794; July 13, 2012, D.C. Law 19-151, § 2, 59 DCR 5134.)

**Effect of amendments.** — D.C. Law 16-191 validated a previously made technical correction in the section number.

D.C. Law 19-151, in subsec. (a), substituted “squares and lots: 5140-0088;” for “lots and squares: 5140 0819; 5140 0820; 5140 0821; 5140 0822; 5140 0823; 5140 0824; 5140 0825; 5140 0826;”; in subsec. (d)(1), substituted “Chapter 8 of this title, and any related fees waived” for “Chapter 8”; in subsec. (d)(2), substituted “exemption and fee waiver granted” for

“exemption granted” and “apply for the 16” for “only apply for the 8”.

**Temporary Amendment of Section.** — Section 2 of D.C. Law 19-54 added subsec. (d)(3) to read as follows: “(3) The real property tax exemption granted by paragraph (1) of this subsection shall apply to Lots 806, 807, and 808 in Square 5190 and to Lots 1, 2, 3, 4, 5, 6, 7, and 8 in Square 5348 for 16 consecutive real property tax years, beginning with tax year

Section 5(b) of D.C. Law 19-54 provides that



the act shall expire after 225 days of its having taken effect.

**Temporary Addition of Section.** — Section 2(b) of D.C. Law 15-346, as amended by section 2 of D.C. Law 16-8, added a section designated as § 47-4607, concerning the Carver 2000 Low-Income and Senior Housing Project—tax exemptions.

Section 5(b) of D.C. Law 15-346 provides that the act shall expire after 225 days of its having taken effect. Section 4(b) of D.C. Law 16-8 provides that the act shall expire after 225 days of its having taken effect.

Section 4(b) of D.C. Law 16-8 provides that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition of section, see § 2(b) of Carver 2000 Low-Income and Senior Housing Project Emergency Act of 2004 (D.C. Act 15-734, January 19, 2005, 52 DCR 1966).

For temporary (90 day) addition of section, see § 2 of Carver 2000 Low-Income and Senior Housing Project Emergency Amendment Act of 2005 (D.C. Act 16-53, March 17, 2005, 52 DCR 3170).

For temporary (90 day) amendment of section, see § 2 of Carver 2000 Low-Income and Senior Housing Project Congressional Review Emergency Amendment Act of 2005 (D.C. Act 16-99, June 21, 2005, 52 DCR 6083).

For temporary (90 day) addition, see § 1172(b) of Fiscal Year 2006 Budget Support Emergency Act of 2005 (D.C. Act 16-168, July 26, 2005, 52 DCR 7667).

For temporary (90 day) amendment of section, see § 3(a) of Finance and Revenue Technical Amendments Second Emergency Amendment Act of 2006 (D.C. Act 16-585, December 28, 2006, 54 DCR 340).

For temporary (90 day) amendment of section, see § 2 of Carver 2000 Low-Income and Senior Housing Project Emergency Act of 2011 (D.C. Act 19-115, July 28, 2011, 58 DCR 6540).

For temporary (90 day) addition of section, see § 3 of Carver 2000 Low-Income and Senior

Housing Project Emergency Act of 2011 (D.C. Act 19-115, July 28, 2011, 58 DCR 6540).

For temporary (90 day) amendment of section, see § 2 of Carver 2000 Low-Income and Senior Housing Project Congressional Review Emergency Amendment Act of 2011 (D.C. Act 19-195, October 18, 2011, 58 DCR 9162).

For temporary (90 day) amendment of section, see § 7005 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) amendment of section, see §§ 2, 3 of the Carver 2000 Low-Income and Senior Housing Project Congressional Review Emergency Act of 2012 (D.C. Act 19-407, July 24, 2012, 59 DCR 9128).

For temporary (90 day) amendment of section, see § 7005 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

**Legislative history of Law 16-33.** — For Law 16-33, see notes following § 47-308.01.

**Legislative history of Law 16-191.** — For Law 16-191, see notes following § 47-2425.

**Legislative history of Law 19-151.** — Law 19-151, the “Carver 2000 Low-Income and Senior Housing Project Amendment Act of 2012”, was introduced in Council and assigned Bill No. 19-437, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 17, 2012 and May 1, 2012, respectively. Signed by the Mayor on May 11, 2012, it was assigned Act No. 19-357 and transmitted to both Houses of Congress for its review. D.C. Law 19-151 became effective on July 13, 2012.

**Short title.** — Short title of subtitle V of title I of Law 16-33: Section 1171 of D.C. Law 16-33 provided that subtitle V of title I of the act may be cited as the Carver 2000 Low-Income and Senior Housing Project Act of 2005.

**Editor’s notes.** — Section 3 of D.C. Law 19-151 provided: “Sec. 3. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.”

## § 47-4606. Brentwood Retail Center, 1060 Brentwood Road, N.E.; lot 57, square 3848.

(a) The real property located in the District of Columbia, described as lot 57, square 3848, situated at 1060 Brentwood Road, N.E., shall be exempt from real property taxation under Chapter 8 for 6 years, beginning on the first day of the month following the month in which the property title was transferred to Brentwood RI, LLC, so long as:

(1) The real property is owned and managed by Brentwood RI, LLC, a District of Columbia limited liability company;

(2) The real property shall be used to develop a commercial and retail

center, containing at least 5 retail establishments, of which 2 shall be leased to national retail stores ("project");

(3) Construction on the development of the project shall commence within 60 days after December 10, 2005;

(4) The Brentwood RI, LLC shall comply with the First Source Agreement and Local, Small, and Disadvantaged Business Enterprises commitments as set forth in the "Application for Economic Assistance" to the District government.

(b) No later than April 1 of each year, the Deputy Mayor for Planning and Economic Development shall provide to the Office of Tax and Revenue a report with information sufficient to allow the Office of Tax and Revenue to determine whether the real property and the owner are in compliance with the requirements of this exemption.

(c) If there is noncompliance with any of the conditions set forth in subsection (a) of this section, the abatement shall terminate as of the beginning of the year in which the noncompliance occurred.

(Mar. 30, 2006, D.C. Law 16-73, § 2(b), 53 DCR 480.)

**Temporary Addition of Section.** — Section 2(b) of D.C. Law 16-38 added provisions to read as follows:

"§ 47-4608. Brentwood Retail Center, 1060 Brentwood Road, N.E.; lot 57, square 3848."

"(a) The real property located in the District of Columbia, described as lot 57, square 3848, situated at 1060 Brentwood Road, N.E., shall be exempt from real property taxation under Chapter 8 for 6 years, beginning on the effective date of this section, so long as:

"(1) The real property is owned and managed by Brentwood RI, LLC, a District of Columbia limited liability company;

"(2) The real property shall be used to develop a commercial and retail center, containing at least 5 retail establishments, of which, 2 shall be leased to national credit retail stores ("project");

"(3) Construction on the development of the project shall commence within 60 days after the effective date of the Brentwood Retail Center Real Property Tax Exemption Temporary Act of 2005;

"(4) The Brentwood RI, LLC shall comply with the First Source Agreement and Local, Small, and Disadvantaged Business Enterprises commitments as set forth in the "Application for Economic Assistance" to the District government.

"(b) If there is noncompliance with any of the conditions set forth in subsection (a) of this section, the abatement shall terminate as of the beginning of the year in which the noncompliance occurred."

Section 4(b) of D.C. Law 16-38 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 2(b) of Brentwood Retail Center Real Property Tax Exemption Emergency Act of 2005 (D.C. Act 16-147, July 26, 2005, 52 DCR 7187).

For temporary (90 day) addition, see § 2(b) of Brentwood Retail Center Real Property Tax Exemption Congressional Review Emergency Act of 2005 (D.C. Act 16-193, October 28, 2005, 52 DCR 10032).

**Legislative history of Law 16-73.** — Law 16-73, the "Brentwood Retail Center Real Property Tax Exemption Act of 2006", was introduced in Council and assigned Bill No. 16-385 which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 6, 2005, and January 4, 2006, respectively. Signed by the Mayor on January 19, 2006, it was assigned Act No. 16-249 and transmitted to both Houses of Congress for its review. D.C. Law 16-73 became effective on March 30, 2006.

## § 47-4607. Parkside Terrace development project-tax exemptions.

(a) For the purposes of this section, the term:

(1) "Affordable rental housing project" means a housing development in which units are rented to occupying households with not more than 80% of



area median income (adjusted for household size) for a rent not exceeding 30% of household income as such amounts are determined by the United States Department of Housing and Urban Development.

(2) "Developer Sponsor" means Parkside Terrace Development LLC, its successors and affiliates.

(3) "Parkside Terrace project" means the acquisition, development, construction, installation, and equipping, including the financing, refinancing, or reimbursing of costs incurred therefor, of the mixed-use apartment house and townhouse project located on the Parkside Terrace property, consisting of:

(A) A 12-story building expected to contain approximately 325 rental apartment and condominium units on the Parkside Terrace property;

(B) Approximately 30 townhouse units expected to be built on currently vacant land on the Parkside Terrace property; and

(C) Other ancillary improvements.

(4) "Parkside Terrace property" means the real property, including any improvements thereon, located in Square 5926, Lot 3 (or as the land for such lots may be subdivided into a record lot or lots or assessment and taxation lots in the future).

(b) The following conveyances with respect to the Parkside Terrace project shall be exempt from the tax imposed by §§ 42-1103 and 47-903:

(1) Any conveyances to the developer sponsor; and

(2) Any conveyances from the developer sponsor to an entity for any portion of the Parkside Terrace project which is to be operated as an affordable rental housing project.

(c) The sales and rental of tangible personal property to be incorporated in or consumed in the Parkside Terrace project, whether or not the sale, rental, or nature of the material or tangible personal property is incorporated as a permanent part of the Parkside Terrace project or the Parkside Terrace property, shall be exempt from the tax imposed by § 47-2002.

(d)(1) The Parkside Terrace property shall be exempt from the tax imposed by Chapter 8 [of this title].

(2) The real property tax exemption granted by paragraph (1) of this subsection shall apply:

(A) To the portion of the Parkside Terrace property expected to be developed into an affordable rental housing project only so long as such portion of the property is operated as an affordable rental housing project; and

(B) To those portions of the Parkside Terrace property which are expected to be developed into for-sale condominium and townhouse units only until such portions of the property are transferred by the Developer Sponsor.

(e) The Parkside Terrace project shall be exempt from any public space permit fees imposed by § 47-2718.

(f) The exemptions pursuant to subsections (c) and (d) of this section shall be in addition to, and not in lieu of, any other tax relief or assistance from any other source applicable to the Parkside Terrace project or the Parkside Terrace property and shall not exceed, in the aggregate, \$6 million.

(g) This section shall not prevent or restrict the Developer Sponsor from utilizing any other tax, development, or other economic incentives available to the Parkside Terrace project or the Parkside Terrace property.

(Apr. 4, 2006, D.C. Law 16-84, § 2(b), 53 DCR 1062; Mar. 25, 2009, D.C. Law 17-353, § 103, 56 DCR 1117.)

**Effect of amendments.** — D.C. Law 17-353 validated a previously made technical correction in the section designation.

**Emergency legislation.** — For temporary (90 day) amendment of D.C. Law 16-84, § 3, see § 22 of Finance and Revenue Technical Amendments Second Emergency Amendment Act of 2006 (D.C. Act 16-585, December 28, 2006, 54 DCR 340).

**Legislative history of Law 16-84.** — Law 16-84, the “Parkside Terrace Economic Development Act of 2006”, was introduced in Council and assigned Bill No. 16-279 which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 6, 2005, and January 4, 2006, respectively. Signed by the Mayor on January 26, 2006, it was assigned Act No.

16-270 and transmitted to both Houses of Congress for its review. D.C. Law 16-84 became effective on April 4, 2006.

**Legislative history of Law 17-353.** — For Law 17-353, see notes following § 47-308.

**Editor’s notes.** — Section 3 of D.C. Law 16-84, as amended by section 106 of D.C. Law 16-191, provided:

“Sec. 3. Applicability.

“(a) Section 47-4607(b) and (e) shall apply as of October 1, 2005. Any amounts paid with respect to conveyances or public space permits fees on or after October 1, 2005 shall be refunded.

“(b) Section 47-4607(d) shall apply as of October 1, 2004. Any amounts paid on or after October 1, 2004 shall be refunded.”

## § 47-4608. DC-USA development project-tax exemptions.

(a) For the purposes of this section, the term:

(1) “DC-USA Project” means the acquisition, development, construction, installation, and equipping of the multi-use retail and parking garage project to be located in square 2674, lots 719, 720, 812, 832, 863, 866, 869, 870, 871, and 872 and the portions of the public alley system in square 2674 that reverted to lots 719, 720, 863, 870, and 872 pursuant to the Closing of Public Alleys on Square 2674, S.O. 01-2426, Act of 2004, effective March 17, 2005 (D.C. Law 15-254; 51 DCR 11429), and the Plat of Alley Closing filed with the Surveyor of the District of Columbia in Book 199, Page 88, including the successor record or assessment and taxation lots to be developed by the Developer, consisting of:

(A) Approximately 487,000 square feet of retail space, including approximately 180,000 square feet of retail space to be owned and operated as a department store by Target Corporation;

(B) An underground parking garage for approximately 1,000 automobiles; and

(C) Other ancillary improvements.

(2) “Developer” means DC USA Operating Co. LLC.

(3) “Development Sponsor” means the National Capital Revitalization Corporation, any subsidiary thereof, or assignee thereof.

(4) “Parking Garage Unit” means the underground parking garage for approximately 1,000 automobiles which will be one of 3 commercial condominium units comprising the DC-USA Project.

(b) The DC-USA Project shall be exempt from the tax imposed by §§ 42-1103 and 47-903.

(c)(1) The sales and rental of tangible personal property to be incorporated in or consumed in the course of the development, construction, equipping, and furnishing of the DC-USA Project, whether or not the sale, material, rental, or



nature of the property is incorporated as a permanent part of the DC-USA Project, shall be exempt from the tax imposed by § 47-2002.

(2) The sales tax exemption granted by paragraph (1) of this subsection shall apply upon the conveyance of the real property to the Developer by the Development Sponsor.

(3) The sales tax exemption granted by paragraph (1) of this subsection shall terminate upon the issuance of a Certificate of Occupancy for the DC-USA Project.

(d)(1) The DC-USA Project shall be exempt from the tax imposed by Chapter 8 [of this title].

(2) The real property tax exemption granted by paragraph (1) of this subsection shall apply upon the conveyance of the real property to the Developer by the Development Sponsor.

(3) The real property exemption granted by paragraph (1) of this subsection shall terminate upon the conveyance of the Parking Garage Unit from the Developer to the Development Sponsor.

(e) The amount of taxes exempt pursuant to subsections (c) and (d) of this section shall not exceed, in the aggregate, \$1,029,000.

(f) The amount of all taxes exempt pursuant to this section shall be in addition to any other tax relief or assistance from any other source applicable to the DC-USA Project.

(May 20, 2006, D.C. Law 16-105, § 2(b), 53 DCR 2051; Mar. 2, 2007, D.C. Law 16-191, § 9(a), 53 DCR 6794; Mar. 25, 2009, D.C. Law 17-353, § 112, 56 DCR 1117.)

**Effect of amendments.** — D.C. Law 16-191, in the section designation, validated a previously made technical correction.

D.C. Law 17-353 validated a previously made technical correction in the section designation.

**Temporary Addition of Section.** — Section 2(b) of D.C. Law 16-77 added § 47-4607 to read as follows:

“47-4607. DC-USA development project-tax exemptions.

“(a) For the purposes of this section, the term:

“(1) ‘DC-USA Project’ means the acquisition, development, construction, installation, and equipping of the multi-use retail and parking garage project to be located in square 2674, lots 719, 720, 812, 832, 863, 866, 869, 870, 871, and 872 and the portions of the public alley system in square 2674 that reverted to lots 719, 720, 863, 870, and 872 pursuant to the Closing of Public Alleys on Square 2674, S.O. 01-2426, Act of 2004, effective March 17, 2005 (D.C. Law 15-254; 51 DCR 11429), and the Plat of Alley Closing filed with the Surveyor of the District in Book 199, Page 88, including the successor record or assessment and taxation lots to be developed by Developer, consisting of:

“(A) Approximately 487,000 square feet of retail space, including approximately 180,000 square feet of retail space to be owned and

operated as a department store by Target Corporation;

“(B) An underground parking garage for approximately 1,000 automobiles; and

“(C) Other ancillary improvements.

“(2) ‘Developer’ means DC USA Operating Co. LLC.

“(3) ‘Development Sponsor’ means the National Capital Revitalization Corporation, any subsidiary thereof, or assignee thereof.

“(4) ‘Parking Garage Unit’ means the underground parking garage for approximately 1,000 automobiles which will be one of 3 commercial condominium units comprising the DC-USA Project.

“(b) The DC-USA Project shall be exempt from the tax imposed by §§ 42-1103 and 47-903.

“(c)(1) The sales and rental of tangible personal property to be incorporated in or consumed in the course of the development, construction, equipping, and furnishing of the DC-USA Project, whether or not the sale, material, rental, or nature of the property is incorporated as a permanent part of the DC-USA Project, shall be exempt from the tax imposed by § 47-2002.

“(2) The sales tax exemption granted by paragraph (1) of this subsection shall apply upon

the conveyance of the real property to the Developer by the Development Sponsor.

“(3) The sales tax exemption granted by paragraph (1) of this subsection shall terminate upon the issuance of a Certificate of Occupancy for the DC-USA Project.

“(d)(1) The DC-USA Project shall be exempt from the tax imposed by Chapter 8.

“(2) The real property tax exemption granted by paragraph (1) of this subsection shall apply upon the conveyance of the real property to the Developer by the Development Sponsor.

“(3) The real property exemption granted by paragraph (1) of this subsection shall terminate upon the conveyance of the Parking Garage Unit from the Developer to the Development Sponsor.

“(e) The amount of taxes exempt pursuant to subsections (c) and (d) of this section shall not exceed, in the aggregate, \$1,029,000.

“(f) The amount of all taxes exempt pursuant to this section shall be in addition to any other tax relief or assistance from any other source applicable to the DC-USA Project, including exemptions and incentives provided in § 47-3802.”

Section 4(b) of D.C. Law 16-77 provides that the act shall expire after 225 days of its having taken effect.

Section 3(b) of D.C. Law 17-28 added § 47-4608 to read as follows:

“§ 47-4608. Exemption from remittance of business taxes and sales taxes for dislocated interior Eastern Market tenants.

“A dislocated interior market tenant doing business at Eastern Market shall be exempt from corporate and unincorporated business taxes and sales taxes imposed by, respectively,

Chapters 18 and 20 of this title for the period of February 1, 2007 through April 30, 2007.”

Section 5(b) of D.C. Law 17-28 provides that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 2(b) of DC-USA Economic Development Emergency Act of 2005 (D.C. Act 16-247, December 22, 2005, 53 DCR 277).

For temporary (90 day) addition, see § 2(b) of DC-USA Economic Development Congressional Review Emergency Act of 2006 (D.C. Act 16-326, March 23, 2006, 53 DCR 2579).

For temporary (90 day) amendment of section, see § 4(a) of Finance and Revenue Technical Amendments Second Emergency Amendment Act of 2006 (D.C. Act 16-585, December 28, 2006, 54 DCR 340).

For temporary (90 day) addition, see § 3(b) of Eastern Market and Georgetown Public Library Disaster Relief Emergency Act of 2007 (D.C. Act 17-53, June 21, 2007, 54 DCR 6589).

**Legislative history of Law 16-105.** — Law 16-105, the “DC-USA Economic Development Act of 2006”, was introduced in Council and assigned Bill No. 16-514 which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on January 4, 2006, and February 7, 2006, respectively. Signed by the Mayor on February 27, 2006, it was assigned Act No. 16-293 and transmitted to both Houses of Congress for its review. D.C. Law 16-105 became effective on May 20, 2006.

**Legislative history of Law 16-191.** — For Law 16-191, see notes following § 47-2425.

**Legislative history of Law 17-353.** — For Law 17-353, see notes following § 47-308.

## § 47-4609. New Convention Center Hotel project-deed and recordation tax exemption.

(a) For the purposes of this section, the term:

(1) “New Convention Center Hotel TIF Area” means the real property located in Lots 18, 21, 22, 24, 801 through 806, 830 through 839, 843, and 845, Square 370, bounded by 9th Street, N.W., 10th Street, N.W., L Street, N.W., and Massachusetts Avenue, N.W.

(2) “Project” means the financing, refinancing, or reimbursing of costs incurred for the acquisition, construction, installing, and equipping of a hotel having approximately 1,100 rooms and suites, meeting and ballroom space, and other ancillary facilities customarily found in convention center hotels.

(b) All transfers of real property in the New Convention Center Hotel TIF Area pursuant to the project and through the date that is 6 months after the effective date of the lease authorized under [part C of subchapter I of Chapter 12 of Title 10] and any transfer by the District of Lot 45 in Square 374 in connection with the project shall be exempt from the taxes imposed by §§ 42-1103 and 47-903.



(Sept. 19, 2006, D.C. Law 16-163, § 115(b), 53 DCR 5430; Mar. 14, 2007, D.C. Law 16-294, § 14, 54 DCR 1086; Apr. 15, 2008, D.C. Law 17-144, § 4, 55 DCR 2527; Mar. 21, 2009, D.C. Law 17-339, § 3, 56 DCR 947.)

**Effect of amendments.** — D.C. Law 16-294 made a technical correction that resulted in no change in text.

D.C. Law 17-144 rewrote the section.

D.C. Law 17-339, in subsec. (b), substituted “with the project shall be exempt from the taxes imposed by §§ 42-1103 and 47-903” for “with the project”.

**Temporary Amendment of Section.** — Section 3 of D.C. Law 17-228, in subsec. (b), inserted “shall be exempt from the taxes imposed by §§ 42-1103 and 47-903” at the end of the subsection.

Section 5(b) of D.C. Law 17-228 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 115(b) of New Convention Center Hotel Omnibus Financing and Development Emergency Act of 2006 (D.C. Act 16-404, June 26, 2006, 53 DCR 5404).

For temporary (90 day) amendment, see § 3 of New Convention Center Hotel Technical Amendments Emergency Amendment Act of 2008 (D.C. Act 17-412, June 18, 2008, 55 DCR 7026).

For temporary (90 day) amendment of section, see § 3 of New Convention Center Hotel Combined Technical Amendments Emergency Amendment Act of 2008 (D.C. Act 17-604, December 16, 2008, 56 DCR 17).

For temporary (90 day) amendment of sec-

tion, see § 3 of New Convention Center Hotel Technical Amendments Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-28, March 16, 2009, 56 DCR 2319).

**Legislative history of Law 16-163.** — Law 16-163, the “New Convention Center Hotel Omnibus Financing and Development Act of 2006”, was introduced in Council and assigned Bill No. 16-630 which was referred to the Committee on Economic Development. The Bill was adopted on first and second readings on May 2, 2006, and June 6, 2006, respectively. Signed by the Mayor on June 27, 2006, it was assigned Act No. 16-409 and transmitted to both Houses of Congress for its review. D.C. Law 16-163 became effective on September 19, 2006.

**Legislative history of Law 16-294.** — For Law 16-294, see notes following § 47-1803.02.

**Legislative history of Law 17-144.** — For Law 17-144, see notes following § 10-1202.01.

**Legislative history of Law 17-339.** — Law 17-339, the “New Convention Center Hotel Technical Amendments Act of 2008”, was introduced in Council and assigned Bill No. 17-774 which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 2, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 6, 2009, it was assigned Act No. 17-657 and transmitted to both Houses of Congress for its review. D.C. Law 17-339 became effective on March 21, 2009.

## § 47-4610. Georgia Commons; Lots 848 and 849, Square 2906.

(a) For the purposes of this section, the term:

(1) “Affordable Units” means units affordable to households with incomes not exceeding 80% of the median income of the Washington, D.C. metropolitan statistical area, as determined annually by the United States Department of Housing and Urban Development, or its successor agency.

(2) “Georgia Commons” means a mixed-use residential and retail project located on the property described for assessment and taxation purposes as Lots 848 and 849, Square 2906.

(3) “Housing Element” means, with respect to Georgia Commons, a condominium regime consisting of 130 multi-family rental units.

(4) “Retail Element” means, with respect to Georgia Commons, a condominium regime consisting of approximately 21,000 square feet of commercial or retail space and parking.

(b) The Housing Element shall be entitled to the exemption provided by subsection (c) of this section and the abatement provided by subsection (d) of

this section so long as at least 57 of the units of the Housing Element are Affordable Units.

(c) Beginning on the date of the transfer of the ownership of Lots 848 and 849, Square 2906, from the District of Columbia to a private owner, the Housing Element shall be exempt from real property taxes imposed by Chapter 8 of this title until the first day of the half tax year immediately following the date on which the Housing Element passes the final inspection necessary for the certificate of occupancy to issue; provided, that the private owner shall diligently and expeditiously take all actions necessary to pass all inspections necessary for the certificate of occupancy to issue.

(d)(1) Subject to paragraph (2) of this subsection, the Housing Element shall receive an annual credit of \$183,000 against real property taxes imposed by Chapter 8 of this title beginning with the first day of the half tax year immediately following the date on which the Housing Element passes the final inspections necessary for the certificate of occupancy to issue and ending on the date that is the last day of the half tax year immediately following the earlier of:

(A) The passage of 40 years; or

(B) The date on which the Housing Element does not have at least 57 Affordable Units.

(2) The annual credit against real property tax granted under this subsection:

(A) Shall not exceed the annual real property taxes imposed on the Housing Element; and

(B) Shall be apportioned equally between half-year installments.

(e) For the purposes of § 47-831(b), the private owner shall have a duty to inform the Office of Tax and Revenue when the Housing Element is no longer entitled to the exemption granted by subsection (c) of this section or the abatement granted by subsection (d) of this section.

(f) Beginning on the date of the transfer of the ownership of Lots 848 and 849, Square 2906, from the District of Columbia to a private owner, the Retail Element shall be exempt from real property taxes imposed by Chapter 8 of this title until the first day of the half tax year immediately following the date on which the Retail Element passes the final inspection necessary for the certificate of occupancy to issue; provided, that the private owner shall diligently and expeditiously take all actions necessary to pass all inspections necessary for the certificate of occupancy to issue.

(g)(1) Subject to paragraph (2) of this subsection, the Retail Element shall receive an annual credit of \$145,148 against real property taxes imposed by Chapter 8 of this title beginning with the first day of the half tax year immediately following the date on which certificates of occupancy have been issued for all of the rentable space in the Retail Element and ending on the date that is the last day of the half tax year immediately following the earlier of:

(A) The passage of 25 years; or

(B) The date on which the Retail Element is no longer used for commercial or rental space.



(2) The annual credit against real property taxes granted by this subsection:

(A) Shall not exceed the annual real property taxes imposed on the Retail Element; and

(B) Shall be apportioned equally between half-year installments.

(h) For the purposes of § 47-831(f), the private owner shall have a duty to inform the Office of Tax and Revenue when the Retail Element is no longer entitled to the exemption granted by subsection (f) of this section or the abatement granted by subsection (g) of this section.

(i) The exemptions and abatements provided by this section shall run with Lots 848 and 849, Square 2906 and shall apply to any subsequent owner or assignee or successor in interest of Georgia Commons.

(Feb. 27, 2008, D.C. Law 17-113, § 2(b), 55 DCR 1866.)

**Legislative history of Law 17-113.** — Law 17-113, the “Georgia Commons Real Property Tax Exemption and Abatement Act of 2007”, was introduced in Council and assigned Bill No. 17-180 which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on Novem-

ber 6, 2007, and December 11, 2007, respectively. Signed by the Mayor on December 31, 2007, it was assigned Act No. 17-238 and transmitted to both Houses of Congress for its review. D.C. Law 17-113 became effective on February 27, 2008.

## **§ 47-4611. Payments in lieu of taxes, Capper/Carrollsborg PILOT Area.**

(a) For the purposes of this section, the term:

(1) “Bonds” means any bonds, notes, or other obligations issued by the District pursuant to the PILOT Authorization Increase and Arthur Capper/Carrollsborg Public Improvements Revenue Bonds Approval Act of 2006, effective March 8, 2007 (D.C. Law 16-244; 54 DCR 609), and D.C. Official Code § 1-204.90.

(2) “Capper/Carrollsborg PILOT Area” means land in the southeast quadrant of the District located in Lots 0045, 0046, 0047, and 0048, Square 799; Lots 0020, 0025, 0026, 0027, 0028, 0816, 0818, 0819, and 0820, Square 800; Lots 0037, 0038, and 0039, Square 824; Squares 737, 739, 767, 768, 769, 797, 798, 825, S825 and 882; any portion of the land known as Reservation 17A which becomes part of Square 737 or 739; and land consisting of streets or alleys located within the Capper/Carrollsborg PILOT Area upon abandonment thereof and reversion to a square or lot included in the Capper/Carrollsborg PILOT Area.

(3) “DCHA” means the District of Columbia Housing Authority.

(4) “Improvement Parcels” means Lots 0074 and 0075, Square 737, and Lot 0021, Square 769, but excluding any portion of the land known as Reservation 17A which becomes part of Square 737, and land consisting of streets or alleys located within the Capper/Carrollsborg PILOT Area upon abandonment thereof and reversion to Square 737 or 769 or lot included in Square 737 or 769.

(5) “Owner” means those persons who may, from time to time, own all or a part of the Capper/Carrollsborg PILOT Area.

(7) "Payment in lieu of taxes" or "PILOT" means payments made in lieu of real property taxes pursuant to this section.

(8) "PILOT period" means the period commencing April 1, 2007, and ending on the earlier of March 31, 2037, or the day after the principal of bonds, together with interest and premium, if any, thereon, and all costs and expenses in connection with any suit, action, or proceeding by or on behalf of the holders of the bonds are fully met and discharged.

(b) During the PILOT period, the real property in the Capper/Carrollsbury PILOT Area (other than the Improvement Parcels) shall be exempt from real property taxation. The improvements on the real property within the Improvement Parcels shall be exempt from real property taxation, but shall not be exempt from special tax provided for in § 1-204.81. The land within the Improvement Parcels shall not be exempt from real property taxation pursuant to this section. Real property and improvements within the Capper/Carrollsbury PILOT Area which in the absence of this section would be subject to business improvement district assessments and other special assessments shall not be exempt from such assessments pursuant to this section or § 47-1002(30). Each owner of a parcel in the Capper/Carrollsbury PILOT Area shall make a PILOT in an amount equal to the real estate taxes, if any, that the owner would be obligated to pay on such parcel in the Capper/Carrollsbury PILOT Area in the absence of this section or in the case of the Improvement Parcels on the improvements on such parcel in the absence of this section. The PILOT shall be made in the same manner and at such times as annual real property taxes under Chapter 8 of this title.

(c) The PILOT shall be subject to the same penalty and interest provisions as unpaid real property taxes under Chapter 8 of this title.

(d) All PILOT shall be made to the District or its designee.

(e) The PILOT shall be paid on such dates that the annual real property taxes would have been due and payable on such parcel. An owner shall have at least 30 days from the date of issuance of a bill to pay any PILOT installment. The owner shall deliver such PILOT to the address identified for delivery of such payment on the applicable bill.

(f) A lien for unpaid PILOT, including penalty and interest, shall attach to the applicable lot within the Capper/Carrollsbury PILOT Area in the same manner and with the same priority as a lien for delinquent real property tax under Chapter 13A of this title. An unpaid PILOT may be collected in accordance with Chapter 13A of this title.

(g) The owner of a lot within the Capper/Carrollsbury PILOT Area shall have the right to challenge any assessment or reassessment of such lot in accordance with the provisions of Chapter 8 of this title and the applicable PILOT shall reflect the result of such challenge.

(Mar. 20, 2008, D.C. Law 17-118, § 202(c)(2), 55 DCR 1461.)

**Temporary Amendment of Section.** — Section 2 of D.C. Law 19-30, in par. (12), substituted "the relocation, construction (on-site or off-site), and redevelopment (on-site or off-site) of certain public facilities located within or

serving the Capper/Carrollsbury PILOT Area, including off-site facilities for the Department of Public Works operations relocated from the Capper/Carrollsbury PILOT Area" for "the relocation, construction, and redevelopment of



certain public facilities located within or serving the Capper/Carrollsborg PILOT Area”; and rewrote par. (16B) to read as follows:

“(B) Costs of relocation, construction (on-site or off-site), and redevelopment (on-site or off-site) of the Capper/Carrollsborg Public Improvements, including off-site facilities for the Department of Public Works operations relocated from the Capper/Carrollsborg PILOT Area;”.

Section 4(b) of D.C. Law 19-30 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of §§ 201 to 204 of D.C. Law 16-244, see § 101 of Arthur Capper/Carrollsborg Public Improvement Revenue Bonds Technical Correction Emergency Act of

2008 (D.C. Act 17-318, March 19, 2008, 55 DCR 3418).

For temporary (90 day) addition, see § 202(c)(2) of Arthur Capper/Carrollsborg Public Improvement Revenue Bonds Technical Correction Emergency Act of 2008 (D.C. Act 17-318, March 19, 2008, 55 DCR 3418).

For temporary (90 day) amendment of § 201 of D.C. Law 16-244, see § 2 of Arthur Capper/Carrollsborg Public Improvements Revenue Bonds Emergency Amendment Act of 2011 (D.C. Act 19-88, June 27, 2011, 58 DCR 5401).

**Legislative history of Law 17-118.** — For Law 17-118, see notes following § 47-902.

**Editor's notes.** — For Capper/Carrollsborg Pilot and Bond Issuance approval, see §§ 201 to 204 of D.C. Law 16-244, as amended by D.C. Law 17-118, § 101, and D.C. Law 18-132, § 2.

## § 47-4612. Constitution Square development project tax abatements.

(a) For the purposes of this section, the term:

(1) “Developer” means CS Master V, LLC, its successors, affiliates, and assigns.

(2) “Constitution Square Project” means the acquisition, development, construction, installation, and equipping, including the financing, refinancing, or reimbursing of costs incurred, of the mixed-use apartment house, office, grocery store/supermarket, and garage project located on the Constitution Square Property, consisting of:

(A) Approximately 900 to 1,000 units of residential condominium/apartment house use;

(B) Approximately 80,000 square feet of retail space;

(C) Approximately 1.2 million square feet of commercial office space;

(D) An approximately 50,000 square foot full-service grocery store/supermarket; and

(E) Other ancillary improvements.

(3) “Constitution Square Property” means the real property, including any improvements thereon, located in Lot 160, Square 711 (or as the land for such lots may be subdivided into a record lot or lots or assessment and taxation lots, condominium lots, air rights lots, or any combination in the future).

(b)(1) The tax imposed by Chapter 8 of this title on the Constitution Square Property shall be abated as follows:

(A) In tax year 2009, taxes in excess of 107% of the taxes paid for tax year 2008;

(B) In tax year 2010, taxes in excess of 113.96% of the taxes paid for tax year 2008; and

(C) In tax year 2011 and each year thereafter, taxes in excess of 121.25% of the taxes paid for tax year 2008.

(2) The real property tax abatement granted by paragraph (1) of this subsection shall only apply for the 10 consecutive real property tax years beginning in the tax year in which the developer begins development on the

Constitution Square Property. The developer shall notify the Director of the Real Property Tax Administration of the Office of Tax and Revenue by certified mail that development has started within 30 days after the commencement of development.

(3) The real property tax abatement granted by paragraph (1) of this subsection shall not exceed, in the aggregate, \$6 million, plus 6% per year of the unused amount of the real property tax abatement from the commencement of development.

(c) The abatement pursuant to subsection (b) of this section shall be in addition to, and not in lieu of, any other tax relief or assistance from any other source applicable to the Constitution Square Project or the Constitution Square Property.

(d) This section shall not prevent or restrict the developer from utilizing any other tax, development, or other economic incentives available to the Constitution Square Project or the Constitution Square Property, including an associated supermarket, which other tax, development, or other economic incentives shall include the supermarket tax incentives set forth in Chapter 38 of this title.

(e) Nothing in this provision shall be construed to limit the owner of the Constitution Square Property from appealing or contesting its real estate tax assessment.

(Mar. 20, 2008, D.C. Law 17-126, § 2(b), 55 DCR 1520.)

**Legislative history of Law 17-126.** — Law 17-126, the “Constitution Square Economic Development Act of 2008”, was introduced in Council and assigned Bill No. 17-344 which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and

second readings on December 11, 2007, and January 8, 2008, respectively. Signed by the Mayor on January 29, 2008, it was assigned Act No. 17-275 and transmitted to both Houses of Congress for its review. D.C. Law 17-126 became effective on March 20, 2008.

## § 47-4613. Payments in lieu of taxes, Rhode Island Metro Plaza PILOT Area; sales tax exemption.

(a) For purposes of this section, the term:

(1) “Bonds” means any bonds, notes, or other instruments issued by the District pursuant to Title II of the Rhode Island Metro Plaza Revenue Bonds Approval Act of 2008, effective April 2, 2008 (D.C. Law 17-140; 55 DCR 1870) [§ 1-308.41 et seq.] and § 1-204.90.

(2) “Owner” shall have the same meaning as provided in § 47-802(5) and shall include the holder of a possessory interest as described in § 47-1005.01.

(3) “Payment in lieu of taxes” or “PILOT” means payments made in lieu of real property taxes pursuant to this section.

(4) “PILOT period” means the period commencing on [April 2, 2008], and ending on the earlier to occur of:

(A) The day after the principal of bonds, together with interest and premium, if any, thereon, and all costs and expenses in connection with any suit, action, or proceeding by or on behalf of the holders of the bonds are fully met and discharged; or

(B) Thirty years after [April 2, 2008]



(5) "Rhode Island Metro Plaza PILOT Area" means the real property, or any possessory interest therein, described as follows: BEGINNING at a point in the southerly line of Rhode Island Avenue, said point being the northwest corner of the land of the District of Columbia; thence departing said southerly line of Rhode Island Avenue and running with the land of the District of Columbia the following courses and distances: with the arc of a curve to the right whose radius is 65.79 feet, whose chord bearing and chord are South 37°53'17" East 39.26 feet for an arc distance of 39.87 feet to a point of tangency, South 20°31'40" East 37.25 feet to a point, with the arc of a curve to the right whose radius is 160.16 feet, whose chord bearing and chord are South 04°10'36" West 137.22 feet for an arc distance of 141.81 feet to a point, South 60°27'29" East 125.00 feet to a point in the northerly line of A&T Lot 800, Square 3854; thence running with said northerly line of A&T Lot 800, Square 3854 the following courses and distances: South 49°39'41" West 25.51 feet to a point, with the arc of a curve to the right whose radius is 1,029.97 feet, whose chord bearing and chord are South 39°26'33" West 457.71 feet for an arc distance of 461.56 feet to a point of compound curvature being the northeast corner of Parcel 131/234; thence running with the northerly line of Parcel 131/234 the following courses and distances: with the arc of a curve to the right whose radius is 972.15 feet, whose chord bearing and chord are South 53°38'13" West 28.96 feet for an arc distance of 28.96 feet to a point of compound curvature, with the arc of a curve to the right whose radius is 543.04 feet, whose chord bearing and chord are South 62°34'48" West 175.88 feet for an arc distance of 176.66 feet to a point of compound curvature, with the arc of a curve to the right whose radius is 806.45 feet, whose chord bearing and chord are South 74°19'46" West 77.33 feet for an arc distance of 77.36 feet to a point being the northwest corner of Parcel 130/61; thence running with the westerly line of Parcel 130/61, South 13°11'21" East 119.50 feet to a point in the northerly line of Parcel 130/1; thence running with said northerly line of Parcel 130/1 the following courses and distances: South 76°48'23" West 205.94 feet to a point, South 36°40'49" West 96.26 feet to a point, South 72°40'49" West 71.83 feet to a point in the easterly line of the property of Washington Metropolitan Area Transit Authority; thence running with said easterly line of the property of Washington Metropolitan Area Transit Authority the following courses and distances: with the arc of a curve to the left whose radius is 1,525.00 feet, whose chord bearing and chord are North 23°00'17" East 68.89 feet for an arc distance of 68.90 feet to a point of compound curvature, with the arc of a curve to the left whose radius is 1,725.00 feet, whose chord bearing and chord are North 20°30'45" East 72.13 feet for an arc distance of 72.14 feet to a point of compound curvature, with the arc of a curve to the left whose radius is 3,885.06 feet, whose chord bearing and chord are North 18°36'10" East 96.53 feet for an arc distance of 96.53 feet to a point of tangency, North 17°53'27" East 159.24 feet to a point, South 60°47'25" East 30.44 feet to a point, North 12°28'30" East 484.03 feet to a point in the southerly line of Rhode Island Avenue; thence running with said southerly line of Rhode Island Avenue, North 68°26'00" East 499.43 feet to the POINT OF BEGINNING, containing 368,202 square feet.

(b) During the PILOT period, the land and improvements in the Rhode Island Metro Plaza PILOT Area shall be exempt from real property taxes

imposed under Chapter 8 of this title or any possessory interest tax imposed under § 47-1005.01. The owner shall make a PILOT in an amount equal to the real estate taxes or any possessory interest taxes, if any, that the owner would be obligated to pay in the absence of this section. PILOT shall be made in the same manner and at such times as annual real property taxes under Chapter 8 of this title.

(c) PILOT shall be subject to the same penalty and interest provisions as unpaid real property taxes under Chapter 8 of this title or any unpaid possessory interest taxes under § 47-1005.01(f)(3).

(d) All PILOT shall be made to the District or its designee.

(e) The PILOT shall be paid on such dates that the annual real property taxes would have been due and payable. Notwithstanding the foregoing, no PILOT for a particular lot or parcel shall be due and payable sooner than 30 days after receipt by the owner of any invoice therefor. The owner shall deliver the PILOT to the address identified for delivery of such payment on the applicable invoice.

(f) A lien for unpaid PILOT, including penalty and interest, shall attach in the same manner and with the same priority as a lien for delinquent real property tax under Chapter 13A of this title. Unpaid PILOT may be collected in accordance with Chapter 13A of this title [title]. If a possessory interest tax would be imposed with respect to a lease or right to use a lot within the Rhode Island Metro Plaza PILOT Area but for this section, the failure to make payments in lieu of taxes with respect to the possessory interest shall be enforced against the owner of the possessory interest in the manner specified in § 47-1005.01(f)(3).

(g) The owner shall have the right to challenge any assessment or reassessment of such lot in accordance with the provisions of Chapter 8 of this title and the applicable PILOT shall reflect the result of such challenge.

(h)(1) For the purposes of this subsection, the term “Rhode Island Metro Plaza Project” means the residential and retail buildings and parking facilities, comprising a mixed-use development, to be developed and constructed at the Rhode Avenue Metro station in the District of Columbia by Rhode Island Avenue Metro, LLC.

(2) Sales of building materials related to the development of the Rhode Island Metro Plaza Project shall be exempt from the tax imposed by Chapter 20 of this title.

(3) The amount of all taxes exempted under this subsection shall not exceed \$1 million, and Rhode Island Avenue Metro, LLC shall immediately notify the Office of Tax and Revenue when the limit is attained and provide an accounting to the Office of Tax and Revenue upon its request.

(4) A sales tax exemption certificate shall be issued to the Rhode Island Metro, LLC shall not be transferable, and shall expire when the limit in paragraph (3) of this subsection has been attained or on December 31, 2010, whichever occurs sooner.

(Apr. 2, 2008, D.C. Law 17-140, § 301(b), 55 DCR 1870; Mar. 21, 2009, D.C. Law 17-342, § 3, 56 DCR 955; Mar. 25, 2009, D.C. Law 17-353, § 228, 56 DCR 1117.)



**Effect of amendments.** — D.C. Law 17-342 rewrote subsec. (a)(2); in subsec. (a)(5), substituted “means the real property, or any possessory interest therein,” for “means the real property”; in subsec. (b), substituted “taxes imposed under Chapter 8 of this title or any possessory interest tax imposed under § 47-1005.01” for “taxes imposed under Chapter 8 of this title” and substituted “equal to the real property taxes or any possessory interest taxes” for “equal to the real property taxes”; in subsec. (c), substituted “title or any unpaid possessory interest taxes under § 47-1005.01(f)(3)” for “title”; in subsec. (f), added the third sentence; rewrote subsec. (h)(1); and, in subsec. (h)(3), substituted “1 million” for “2 million”.

D.C. Law 17-353, in subsec. (a)(1), substituted “Title II of the Rhode Island Metro Plaza Revenue Bonds Approval Act of 2008, effective April 2, 2008 (D.C. Law 17-140; 55 DCR 1870)” for “Title II”.

**Temporary Amendment of Section.** — Section 3 of D.C. Law 17-293 amended subsec. (a)(2) to read as follows:

“(2) ‘Owner’ shall have the same meaning as provided in § 47-802(5) and shall include the holder of a possessory interest as described in § 47-1005.01.”; in subsec. (a)(5), struck “means the real property” and inserted “means the real property, or any possessory interest therein.”; in subsec. (b), struck “taxes imposed under Chapter 8 of this title” and inserted “taxes imposed under Chapter 8 of this title or any possessory interest tax imposed under § 47-1005.01”, struck “equal to the real property taxes” and inserted “equal to the real property taxes or any possessory interest taxes”; in subsec. (c), substituted “or any unpaid possessory interest taxes under § 47-1005.01(f)(3).” for the period; in subsec. (f) added a new 3rd sentence to read as follows: “If a possessory interest tax would be imposed with respect to a lease or right to use a lot within the Rhode Island Metro Plaza PILOT Area but for this section, the failure to make payments in lieu of taxes with respect to the possessory interest shall be enforced against the owner of the possessory interest in the manner specified in § 47-1005.01(f)(3).”; rewrote subsec. (h)(1) to read as follows:

“(1) For the purposes of this subsection, the term “Rhode Island Metro Plaza Project” means the residential and retail buildings and parking facilities, comprising a mixed-use development, to be developed and constructed at the Rhode Avenue Metro station in the District of Columbia by Rhode Island Avenue Metro, LLC.”; and, in subsec. (h)(3), substituted “\$1 million” for “\$2 million”.

Section 5(b) of D.C. Law 17-293 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 3 of Rhode Island Avenue Metro Plaza Revenue Bonds Approval Emergency Amendment Act of 2008 (D.C. Act 17-555, October 27, 2008, 55 DCR 12001).

**Legislative history of Law 17-140.** — Law 17-140, the “Rhode Island Metro Plaza Revenue Bonds Approval Act of 2008”, was introduced in Council and assigned Bill No. 17-461 which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 11, 2007, and February 5, 2008, respectively. Signed by the Mayor on February 13, 2008, it was assigned Act No. 17-291 and transmitted to both Houses of Congress for its review. D.C. Law 17-140 became effective on April 2, 2008.

**Legislative history of Law 17-342.** — Law 17-342, the “Rhode Island Avenue Metro Plaza Revenue Bonds Approval Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-947 which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 2, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 6, 2009, it was assigned Act No. 17-660 and transmitted to both Houses of Congress for its review. D.C. Law 17-342 became effective on March 21, 2009.

**Legislative history of Law 17-353.** — For Law 17-353, see notes following § 47-308.

**References in text.** — Title II, referred to in subsec. (a)(1), is Title II, Financing, §§ 201 to 212 of D.C. Law 17-140.

**Editor’s notes.** — Section 401 of D.C. Law 17-140 provided that this act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.

Section 320 of D.C. Law 17-353 repealed section 401 of D.C. Law 17-140.

Section 2 of D.C. Law 18-344 amended sections 201 and 205 of D.C. Law 17-140.

Section 3 of D.C. Law 18-344 provided that this act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.

The Budget Director of the Council of the District of Columbia has determined, as of February 15, 2012, that the fiscal effect of Law 18-344 has not been included in an approved budget and financial plan. Therefore, the provisions of this section, enacted by Law 18-344, are not in effect.

**§ 47-4614. East of the river hospital tax exemptions.**

(a) The transfer of Lots 3 and 4, Square 5919, transferred to Specialty Hospitals of Washington-GSE Holdings, LLC, or certain of its subsidiary entities, shall be exempt from the tax imposed by § 42-1103 and § 47-903.

(b) The real property, including land and improvements, designated for tax purposes as Lots 3 and 4, Square 5919, shall be exempt from the tax imposed by Chapter 8 of this title; provided, that the exemption shall commence on the date that Specialty Hospitals of America, LLC, or certain of its subsidiary entities, acquires the property and terminates on the earlier to occur of:

(1) The date that the Mayor certifies to the District of Columbia Treasurer that Specialty Hospitals of America, LLC, or certain of its subsidiaries, or any party that subsequently acquires the property or any part thereof by purchase, lease, or exchange, fails to comply with the terms of an agreement between Specialty Hospital of America, LLC, or certain of its subsidiaries, and Greater Southeast Investment, L.P., to pay an amount equal to the real property taxes that the owner of the property would be obligated to pay on the property, or any part thereof, in the absence of this section; or

(2) The date that the Mayor certifies to the District of Columbia Treasurer that the acquisition loan in the maximum principal amount of \$29 million by Greater Southeast Investment, L.P., to Capitol Medical Center, LLC, and CMC Realty, LLC, has been paid in full.

(July 18, 2008, D.C. Law 17-186, § 3(b), 55 DCR 6113.)

**Legislative history of Law 17-186.** — Law 17-186, the “East of the River Hospital Revitalization Tax Exemption Amendment Act of 2008”, was introduced in Council and assigned Bill No. 17-464 which was referred to the Committee on Finance and Revenue. The Bill was

adopted on first and second readings on April 1, 2008, and May 6, 2008, respectively. Signed by the Mayor on May 20, 2008, it was assigned Act No. 17-380 and transmitted to both Houses of Congress for its review. D.C. Law 17-186 became effective on July 18, 2008.

**§ 47-4615. Abatement of real property taxes for National Public Radio, Inc.**

(a) The real property taxes to be imposed with respect to the real property identified in the tax records of the District of Columbia, as of the effective date of this section [August 29, 2008], as Square 673, Lot 837, and any improvements thereto, shall be abated in any amount in excess of the amount of the real property taxes imposed on the property for tax year 2008, but only until the 1st tax year beginning after the 20th anniversary of the issuance of the final certificate of occupancy for the headquarters building of National Public Radio, Inc., on such real property.

(b) Any increase in the real property taxes and vault fees imposed on Square W-484 shall be limited to an annual increase of no more than 3% from the effective date of this section [August 29, 2008] until the earlier of the following:

(1) The date that National Public Radio, Inc., entirely vacates the building located on Square W-484;

(2) The date that the building located on Square W-484 is leased to a majority tenant other than National Public Radio, Inc.; or



(3) December 31, 2013.

(Aug. 29, 2008, D.C. Law 17-220, § 2(b), 55 DCR 8235.)

**Emergency legislation.** — For temporary (90 day) repeal of section 3 of D.C. Law 17-220, see § 7003 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal of section 3 of D.C. Law 17-220, see § 7003, of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 17-220.** — Law 17-220, the “National Public Radio Real Property Tax Abatement Act of 2008”, was introduced in Council and assigned Bill No. 17-666, which was referred to the Committee of Finance and Revenue. The Bill was adopted on first and second readings on June 3, 2008, and

July 1, 2008, respectively. Signed by the Mayor on July 7, 2008, it was assigned Act No. 17-421 and transmitted to both Houses of Congress for its review. D.C. Law 17-220 became effective on August 29, 2008.

**Short title.** — Short title: Section 7001 of D.C. Law 18-111 provided that subtitle A of title VII of the act may be cited as the “Budget Financing Contingencies Amendment Act of 2009”.

**Editor’s notes.** — Section 7003 of D.C. Law 18-111 repealed section 3 of D.C. Law 17-220.

Section 3 of D.C. Law 17-220 provided that this act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.

## § 47-4616. Payments in lieu of taxes, Southwest Waterfront PILOT/TIF Area.

(a) For the purposes of this section, the term:

(1) “Bonds” means any bonds, notes, or other obligations issued by the District pursuant to the Southwest Waterfront Bond Financing Act of 2008 [D.C. Law 17-252].

(2) “Lot” means real property as defined in § 47-802(1).

(3) “Master Developer” means the development entity to which the District transfers the leasehold interest in the Southwest Waterfront PILOT/TIF Area and which is responsible for the planned development of the entire Southwest Waterfront PILOT/TIF Area, including the project.

(4) “Southwest Waterfront PILOT/TIF Area” shall consist of the following geographic area:

(A) Approximately 23 acres of land area between the southern curb line of Maine Avenue, S.W., and the bulkhead paralleling the Washington Channel from the western edge of the Fish Market to the western curb of 6th Street, S.W., to the eastern edge of Lot 843, Square 473, the eastern edge of Lots 883, 884, and 885, Square 503, to the eastern edge of parcel 25<sup>5</sup>/<sub>15</sub>, to the western edge of the P Street, S.W., right-of-way; and

(B) The riparian area and piers associated with the land described in subparagraph (A) of this paragraph, which include:

- (i) The Fish Market;
- (ii) The Capital Yacht Club;
- (iii) The Gangplank Marina; and
- (iv) Piers 4 and 5.

(5) “Owner” shall have the same meaning as provided in § 47-802(5) and shall include the holder of a possessory interest as described in § 47-1005.01.

(6) “Payment in lieu of taxes” or “PILOT” means payments made in lieu of real property taxes pursuant to this section.

(7) “PILOT period” means, with respect to any lot within the Southwest

Waterfront PILOT/TIF Area, the period commencing on the date the lot is transferred by the District to the Master Developer and ending on the earlier of:

(A) September 30, 2044; or

(B) The day after all of the bonds are paid or provided for and are no longer outstanding pursuant to their terms.

(8) "Project" means the publicly owned infrastructure located within the Southwest Waterfront PILOT/TIF Area, including streets, parking facilities, sidewalks, walkways, streetscapes, parks, bulkheads, piers, curbs, gutters, and gas, electric, and water utility lines, and the acquisition, equipping, relocation, construction, and redevelopment of certain public facilities, including parks.

(b) During the PILOT period:

(1) The lots in the Southwest Waterfront PILOT/TIF Area that are subject to the PILOT shall be exempt from real property taxation, including the special tax provided for in § 1-204.81; and

(2)(A) Possessory interests in such lots shall be exempt from the possessory interest tax imposed by § 47-1005.01.

(B) Each owner of a lot, other than the United States or the District, or an otherwise taxable possessory interest in a lot in the Southwest Waterfront PILOT/TIF Area shall enter into a PILOT agreement with the District obligating the owner to make an annual PILOT in an amount equal to the real property taxes, including the special tax provided for in § 1-204.81, or possessory interest taxes that the owner would be obligated to pay on the lot or possessory interest in the Southwest Waterfront PILOT/TIF Area in the absence of this section, which agreement shall run with the land and be binding on the successors and assigns of the original owner.

(c) The Chief Financial Officer shall determine the amount of PILOT due for each lot and shall generally administer the PILOT program established herein, in the same manner as provided for real property taxation under Chapter 8 of this title or in the case of PILOT due with respect to possessory interests under § 47-1005.01.

(d) The PILOT shall be subject to the same penalty and interest provisions as unpaid real property taxes under Chapter 8 of this title or unpaid possessory interest taxes under § 47-1005.01(f)(3).

(e) All PILOT shall be made to the District and shall be allocated as provided in the Southwest Waterfront Bond Financing Act of 2008 [D.C. Law 17-252].

(f) The PILOT shall be paid at the same time and in the same manner as real property taxes under Chapter 8 of this title.

(g) A lien for unpaid PILOT, including penalty and interest, shall attach to the applicable lot within the Southwest Waterfront PILOT/TIF Area in the same manner and with the same priority as a lien for delinquent real property tax under Chapter 13A of this title. Unpaid PILOT shall be collected in accordance with Chapter 13A of this title. Notwithstanding the foregoing, if a possessory interest tax would be imposed with respect to a lease or right to use a lot pursuant to § 47-1005.01 but for this section, the failure to make



payments in lieu of taxes with respect to the possessory interest shall be enforced against the owner of the possessory interest in the manner specified in § 47-1005.01(f)(3). The PILOT shall be deemed a tax within the meaning of 11 U.S.C. §§ 502(b), 505, and 507(a)(8)(B).

(h) The owner of a lot or possessory interest within the Southwest Waterfront PILOT/TIF Area may challenge any assessment or reassessment of the lot or possessory interest in accordance with the provisions of Chapter 8 of this title and the applicable PILOT shall reflect the result of the challenge.

(i) The PILOT shall be an assessment for the purposes of §§ 47-832 through 47-835 relating to subdivisions of lots, parcels, or tracts.

(Oct. 22, 2008, D.C. Law 17-252, § 201(b), 55 DCR 9251.)

**Legislative history of Law 17-252.** — Law 17-252, the “Southwest Waterfront Bond Financing Act of 2008”, was introduced in Council and assigned Bill No. 17-591 which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second

readings on July 1, 2008, and July 15, 2008, respectively. Signed by the Mayor on August 4, 2008, it was assigned Act No. 17-499 and transmitted to both Houses of Congress for its review. D.C. Law 17-252 became effective on October 22, 2008.

## **§ 47-4617. Sales tax exemption for sales to Close Up Foundation.**

(a) Sales to the Close Up Foundation, a District of Columbia nonprofit corporation, shall be exempt from the tax imposed by § 47-2002.

(b) This section shall expire on December 31, 2012.

(Mar. 20, 2009, D.C. Law 17-307, § 2(b), 56 DCR 25.)

**Legislative history of Law 17-307.** — Law 17-307, the ‘Close Up Foundation Sales Tax Exemption Amendment Act of 2008’, was introduced in Council and assigned Bill No. 17-809 which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 18,

2008, and December 2, 2008, respectively. Signed by the Mayor on December 16, 2008, it was assigned Act No. 17-607 and transmitted to both Houses of Congress for its review. D.C. Law 17-307 became effective on March 20, 2009.

## **§ 47-4618. Eckington One Residential Project tax exemptions.**

(a) For the purposes of this section, the term:

(1) “Developer” means NoMa West Residential I, LLC, its successors, affiliates, and assigns.

(2) “Eckington One Residential Project” means the acquisition, development, construction, installation, and equipping, including the financing, refinancing, or reimbursing of costs incurred, of the mixed-use, multi-family residential and ground-floor retail project located on the Eckington One Residential Property, consisting of:

(A) Approximately 600 units of residential condominium/apartment house use totaling approximately 560,000 square feet of floor area and housed in 3 buildings, including approximately 48 units of affordable housing;

(B) Approximately 1,000 square feet of ground-floor retail space;

(C) Below-grade parking garages; and

(D) Other ancillary improvements, including extension of Q Street, N.E., from Eckington Place to Harry Thomas Way.

(3) "Eckington One Residential Property" means the real property, including any improvements constructed thereon, located in Lots 816, 817, 818, 819, and 820, Square 3576 (or as the land for such lots may be subdivided into a record lot or lots or assessment and taxation lots, condominium lots, air rights lots, or any combination in the future).

(b)(1) The tax imposed by Chapter 8 of this title on the Eckington One Residential Property shall be abated as follows:

(A) In tax year 2010, taxes in excess of 107% of the taxes paid for tax year 2009;

(B) In tax year 2011, taxes in excess of 113.96% of the taxes paid for tax year 2009; and

(C) In tax year 2012 and each year thereafter, taxes in excess of 121.25% of the taxes paid for tax year 2009.

(2) The real property tax abatement granted by paragraph (1) of this subsection shall only apply for the 10 consecutive real property tax years beginning in the tax year in which the developer begins development on the Eckington One Residential Property. The developer shall notify the Director of the Real Property Tax Administration of the Office of Tax and Revenue by certified mail that development has started within 30 days of the commencement of development.

(3) The real property tax abatements granted by paragraphs (1) and (2) of this subsection shall not exceed, in the aggregate, \$5 million, plus 6% per year of the unused amount of the real property tax abatement from the commencement of development.

(c) The abatement pursuant to subsection (b) of this section shall be in addition to, and not in lieu of, any other tax relief or assistance from any other source applicable to the Eckington One Residential Project or the Eckington One Residential Property.

(d) This section shall not:

(1) Prevent or restrict the developer from utilizing any other tax, development, or other economic incentives available to the Eckington One Residential Project or the Eckington One Residential Property; or

(2) Limit the owner of the Eckington One Residential Property from appealing or contesting its real estate tax assessment.

(Mar. 25, 2009, D.C. Law 17-348, § 2, 56 DCR 971.)

**Emergency legislation.** — For temporary (90 day) repeal of section 3 of D.C. Law 17-348, see § 7030 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal of section 3 of D.C. Law 17-348, see § 7030 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 17-348.** — Law 17-348, the "Eckington One Residential Project Economic Development Act of 2008", was introduced in Council and assigned Bill No. 17-855 which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 18, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 12, 2009, it was assigned Act No. 17-666 and transmitted to



both Houses of Congress for its review. D.C. Law 17-348 became effective on March 25, 2009.

**Editor's notes.** — Section 3 of D.C. Law 17-348 provided that this act shall apply upon

the inclusion of its fiscal effect in an approved budget and financial plan.

Section 7030 of D.C. Law 18-111 repealed section 3 of D.C. Law 17-348.

### **§ 47-4619. Abatement of real property taxes for the temporary Walker Jones/Northwest One Unity Health Center.**

(a) For the purposes of this section, the term “Unity Health Center” means the portion of the real property described as Lot 253, Square 672, in use by Unity Health Care, Inc., as the Walker Jones/Northwest One Unity Health Center.

(b) The real property taxes imposed by Chapter 8 of this title on the Unity Health Center shall be abated for the period of October 1, 2009 to September 30, 2013.

(Mar. 25, 2009, D.C. Law 17-351, § 2, 56 DCR 1113.)

**Legislative history of Law 17-351.** — Law 17-351, the “Walker Jones/Northwest One Unity Health Center Tax Abatement Act of 2008”, was introduced in Council and assigned Bill No. 17-917 which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 2, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 15,

2009, it was assigned Act No. 17-685 and transmitted to both Houses of Congress for its review. D.C. Law 17-351 became effective on March 25, 2009.

**Editor's notes.** — Section 3 of D.C. Law 17-351 provided that this act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.

### **§ 47-4620. St. Martin's Apartments project tax exemptions.**

(a) For the purposes of this section, the term:

(1) “Affordable rental housing project” means a housing development in which units are rented to households with not more than 60% of area median income (adjusted for household size) as such amount of area median income is determined by the United States Department of Housing and Urban Development when they qualify for admission and for a rent not to exceed the rent ceiling for each unit size, as determined by the District of Columbia Housing Finance Agency in accordance with the Federal Low Income Housing Tax Credit regulations.

(2) “Developer Owner” means St. Martin's Apartments, LP, and its successors, affiliates, and assigns.

(3) “Developer Sponsor” means C.C.S. Housing, Inc., its successors, affiliates, and assigns.

(4) “St. Martin's Apartments project” means the acquisition, rehabilitation, and equipping, including the financing, refinancing, or reimbursing of costs incurred, of an affordable housing project located on the land in St. Martin's Parish located on Lot 116, Square 3531 and leased from the Roman Catholic Archdiocese of Washington or Roman Catholic Archbishop of Washington property, consisting of:

(A) A building containing 178 units of rental housing on the St. Martin's Apartments property; and

(B) Other ancillary improvements, including the parking facility included within the building and any cellular tower or cellular equipment on or in the building.

(5) "St. Martin's Apartments property" means the real property, including any improvements thereon, located on Lot 116, Square 3531.

(b) The following conveyances with respect to the St. Martin's Apartments project or property shall be exempt from the tax imposed by §§ 42-1103 and 47-903:

(1) Any conveyances to the Developer Sponsor; and

(2) Any conveyances from the Developer Sponsor to an entity that operates the St. Martin's Apartments project or property as an affordable rental housing project.

(c) The St. Martin's Apartments property shall be exempt from all property tax so long as the property is operated as an affordable rental housing project, subject to the provisions of §§ 47-1005, 47-1007, and 47-1009 as if the exemption were granted administratively.

(d) The St. Martin's Apartments project and the St. Martin's Apartments property shall be exempt from any public space permit fees imposed by § 47-2718.

(e) The exemptions pursuant to subsections (c) and (d) of this section shall be in addition to, and not in lieu of, any other tax relief or assistance from any other source applicable to the St. Martin's Apartments project or the St. Martin's Apartments property.

(f) This section shall not prevent or restrict the Developer Sponsor or Developer Owner from utilizing any other tax, development, or other economic incentives available to the St. Martin's Apartments project or the St. Martin's Apartments property.

(Mar. 25, 2009, D.C. Law 17-355, § 2, 56 DCR 1159.)

**Temporary Addition of Section.** — Section 2(b) of D.C. Law 17-255 added a section to read as follows: "§ 47-4616. St. Martin Apartments project-tax exemptions.

"(a) For the purposes of this section, the term:

"(1) "Affordable rental housing project" means a housing development in which units are rented to elderly households with not more than 60% of area median income (adjusted for household size) for a rent not exceeding 30% of 60% area median income of such household, as such amount of area median income is determined by the United States Department of Housing and Urban Development.

"(2) "Developer Sponsor" means St. Martin Apartments LP, its successors, affiliates, and assigns.

"(3) "St. Martin Apartments project" means the acquisition, rehabilitation, and equipping, including the financing, refinancing, or reimbursing of costs incurred therefore, of an afford-

able housing project, located on the St. Martin Parish of the Roman Catholic Archdiocese of Washington property, consisting of:

"(A) A building containing 178 units of rental housing on the St. Martin Apartments property; and

"(B) Other ancillary improvements.

"(4) "St. Martin Apartments property" means the real property, including any improvements thereon, located in Lots 114 and 115, Square 3531.

"(b) The following conveyances with respect to the St. Martin Apartments project shall be exempt from the tax imposed by §§ 42-1103 and 47-903:

"(1) Any conveyances to the Developer Sponsor; and

"(2) Any conveyances from the Developer Sponsor to an entity that operates the St. Martin Apartments project as an affordable rental housing project.



“(c) The St. Martin Apartments property shall be exempt from the tax imposed by Chapter 8 of this title so long as the property is operated as an affordable rental housing project, subject to the provisions of D.C. Official Code §§ 47-1005, 47-1007, and 47-1009, as if the exemption were granted administratively.

“(d) The St. Martin Apartments project shall be exempt from any public space permit fees imposed by § 47-2718.

“(e) The exemptions pursuant to subsections (c) and (d) of this section shall be in addition to, and not in lieu of, any other tax relief or assistance from any other source applicable to the St. Martin Apartments project or the St. Martin Apartments property.

“(f) This section shall not prevent or restrict the Developer Sponsor from utilizing any other tax, development, or other economic incentives available to the St. Martin Apartments project or the St. Martin Apartments property.”

Section 5(b) of D.C. Law 17-255 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 2(b) of St. Martin Apartments Tax Exemption Emergency Act of 2008 (D.C. Act 17-491, August 4, 2008, 55 DCR 9164).

For temporary (90 day) addition, see § 2(b) of St. Martin's Apartments Tax Exemption Congressional Review Emergency Act of 2008 (D.C. Act 17-541, October 20, 2008, 55 DCR 11423).

For temporary (90 day) repeal of section 3 of D.C. Law 17-355, see § 7025 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal of section 3 of D.C. Law 17-355, see § 7025 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 17-355.** — Law 17-355, the “St. Martin's Apartment Tax Exemption Act of 2008”, was introduced in Council and assigned Bill No. 17-587 which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 2, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 16, 2009, it was assigned Act No. 17-689 and transmitted to both Houses of Congress for its review. D.C. Law 17-355 became effective on March 25, 2009.

**Editor's notes.** — Section 3 of D.C. Law 17-355 provided: “Sec. 3. Applicability; refund. This act shall apply, upon the inclusion of its fiscal effect in an approved budget and financial plan, as of August 4, 2008; provided, that if St. Martin's Apartments, LP has paid any of the fees or taxes referred to in section 2, the fees or taxes shall be refunded.”

Section 7025 of D.C. Law 18-111 repealed section 3 of D.C. Law 17-355.

## **§ 47-4621. Gateway Market Center and Residences, 1240 — 1248 4th Street, N.E., Lots 5, 800, 802, and 809, and Parcels 129/9 and 129/32, Square 3587 real property tax abatement and sales tax exemption.**

(a) For the purposes of this section, the term:

(1) “Gateway Market Center and Residences” means the real property located at 1240 — 1248 4th Street, N.E., more particularly described as Lots 5, 800, 802, and 809, and Parcels 129/9 and 129/32, Square 3587.

(2) “Gateway Market Center and Residences Project” means the mixed-use development to be constructed on the Lots 5, 800, 802, and 809, and Parcels 129/9 and 129/932, Square 3587.

(b)(1) Subject to the conditions set forth in paragraph (2) of this subsection, beginning [beginning] in the tax year that the developer begins development/construction on the Gateway Market Center and Residences Project, the tax imposed by Chapter 8 of this title on the Gateway Market Center and Residences for 20 consecutive years shall be as follows:

(A) For the first 10 years, the amount of the real property tax that is required to be paid at the date of the application for the building permit for the Gateway Market Center and Residences Project or the date that the Zoning

Commission approves the planned unit development application for the Gateway Market Center and Residences Project;

(B) For the second 10 years, 10% of the annual assessment of real property taxes and an increase of 10% each year in years 11 through 20 until the annual real property taxation equals 100%.

(2) Paragraph (1) of this subsection shall be subject to the following conditions:

(A) The Gateway Market Center and Residences shall be owned by Sang Oh & Company, Inc., its assignees, or successors.

(B) The Gateway Market Center and Residences shall be used to develop a mixed-use development with retail, office, and residential uses as set forth in the Land Disposition/Purchase Agreement (DC-DHCD Contract No. 2004-3) between Sang Oh & Company, Inc., and the District of Columbia, dated February 26, 2004, and as has been and as may be amended.

(C) The residential component of the mixed-use development shall set aside 20% of the total residential units (24 units) as affordable housing for household incomes of no more than 80% of the Area Median Income in perpetuity.

(D) The mixed-use development shall include public amenities requested by Advisory Neighborhood Commission 5B, including a 100-seat community meeting room, an office for Advisory Neighborhood Commission 5B, and a Metropolitan Police Department community work station for the Fifth District, all rent-free in perpetuity.

(E) Gateway Market Center, LLC shall comply with its First Source and LSDBE commitments as set forth in the "Application for Economic Assistance" to the District government.

(3) The construction and completion of Gateway Market Center and Residences will contribute to the health, education, safety, or welfare of, or the creation or preservation of jobs for, residents of the District, or to economic development of the District.

(c)(1) Sales of building materials for Gateway Market Center and Residences Project shall be exempt from the tax imposed by Chapter 20 of this title.

(2) The amount of all taxes exempted under this subsection shall not exceed \$250,000. The developer, Gateway Market Inc., shall immediately notify the Office of Tax and Revenue when such limit is attained and provide an accounting to the Office of Tax and Revenue upon its request.

(3) The sales tax exemption certification shall be issued to Gateway Market Inc., its assignees, or successors, shall be non-transferable, and shall expire when the limit in paragraph (2) of this subsection has been attained or on December 31, 2011, whichever occurs sooner.

(Mar. 25, 2009, D.C. Law 17-359, § 2(2), 56 DCR 1193.)

**Temporary Addition of Section.** — Section 2(b) of D.C. Law 18-57 added a section to read as follows: "§ 47-4624. Rhode Island Avenue development parcels —tax deferral. "Upon application, the Mayor shall defer, until October 1, 2009, the real property tax imposed by

Chapter 8 of this title on Rhode Island Avenue development parcels 4219%010, 4219/0009, 419%012, and 4217/0003. If the real property tax is deferred and paid prior to October 1, 2009, penalty and interest shall be abated. The foregoing parcels shall not be sold at tax sale



during 2009; provided, that any court-ordered foreclosure of a parcel pending prior to the effective date of this section shall supersede the provisions of this section with respect to that particular parcel and the real property owner shall be responsible for any tax sale legal fees.”.

Section 4(b) of D.C. Law 18-57 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 2(b) of Neighborhood Development Tax Deferral Emergency Act of 2009 (D.C. Act 18-114, June 20, 2009, 56 DCR 4944).

For temporary (90 day) addition, see § 2(b) of Neighborhood Development Tax Deferral Congressional Review Emergency Act of 2009 (D.C. Act 18-150, July 31, 2009, 56 DCR 6336).

For temporary (90 day) repeal of section 3 of D.C. Law 17-359, see § 7028 of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) repeal of section 3 of

D.C. Law 17-359, see § 7028 of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 17-359.** — Law 17-359, the “Gateway Market Center and Residences Real Property Tax Exemption Act of 2008”, was introduced in Council and assigned Bill No. 17-730 which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 18, 2008, and December 16, 2008, respectively. Signed by the Mayor on January 16, 2009, it was assigned Act No. 17-693 and transmitted to both Houses of Congress for its review. D.C. Law 17-359 became effective on March 25, 2009.

**Editor’s notes.** — Section 3 of D.C. Law 17-359 provided that this act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.

Section 7028 of D.C. Law 18-111 repealed section 3 of D.C. Law 17-359.

## § 47-4622. Sales and use tax credit for the National Law Enforcement Museum.

(a) The National Law Enforcement Officers Memorial Fund, Inc. (“Fund”) and the vendors at the National Law Enforcement Museum (“Museum”) located on United States Reservation Number 7, on property bounded by the National Law Enforcement Officers Memorial on the north; the United States Court of Appeals for the Armed Forces on the west; Court Building C on the east; and Old City Hall on the south shall be granted a credit against the sales and use taxes imposed by §§ 47-2002, 47-2002.02, 47-2202, and 47-2202.01 in the amount set forth in subsection (b) of this section during the period of time set forth in subsections (e) and (f) of this section.

(b) The amount of the credit shall be the amount of the taxes imposed by §§ 47-2002, 47-2002.02, 47-2202, and 47-2202.01 on the National Law Enforcement Officers Memorial Fund, Inc., and the vendors at the Museum for sales at the Museum; provided, that the annual amount of the credit shall not exceed the amount that would be necessary to pay principal and interest for one year on a loan of \$5.5 million amortized in equal semiannual payments over a 20-year period at the lesser of an 8% interest rate or an interest rate equal to the true interest cost (as the term “true interest cost” is defined by the Municipal Securities Rulemaking Board) on the District of Columbia revenue bonds issued for the Museum.

(c) The Fund shall notify the Office of the Chief Financial Officer of the true interest cost and the Fund’s calculation of the amount of the annual tax credit within 15 days after closing on the District of Columbia revenue bonds issued for the Museum.

(d) The Fund and the vendors at the Museum shall report their gross monthly receipts monthly to the Office of the Chief Financial Officer in accordance with the rules of the Office of Tax and Revenue, and include on such

reports the amount of the tax credit balance after deducting the applicable taxes credited against such balance on their reports. The Fund shall coordinate with the vendors to ensure that the total amount of the credit allocated to the Fund and to each vendor in each year does not exceed the maximum annual amount of credit authorized under subsection (b) of this section.

(e) The credit authorized by this section shall commence on the 1st day of the 4th month following the date that the Museum is granted a certificate of occupancy by the appropriate government regulatory agency and shall expire 20 years thereafter.

(f) The Fund and the vendors at the Museum shall have no obligation to refund or otherwise return any amount of the credit authorized by this section to any person from whom the taxes offset by the credit were collected.

(g) The Chief Financial Officer may terminate the tax credit granted by this [section] if the Fund:

(1) Does not execute a development agreement with the District, relating to development of the Museum, within 90 days after [September 23, 2009]; or

(2) Violates the terms of the development agreement between the Fund and the District.

(Sept. 23, 2009, D.C. Law 18-49, § 2(b), 56 DCR 5484.)

**Temporary Addition of Section.** — Section 2(b) of D.C. Law 18-101 added a section to read as follows:

“§ 47-4626. First Congregational United Church of Christ property tax abatement.

“(a) The real property described as Lots 833 through 835 and 7000 through 7011, Square 375, as the land for such lots may be subdivided into a record lot or lots or assessment and taxation lots in the future, known as the First Congregational United Church of Christ property and owned by the First Congregational United Church of Christ, a District of Columbia nonprofit corporation formed for the purpose of religious worship, shall be exempt from taxation under Chapter 8 of this title so long as the First Congregational United Church of Christ owns the real property, subject to the provisions of §§ 47-1005, 47-1007, and 47-1009 as if the exemption were granted administratively.

“(b) The transfer by the First Congregational United Church of Christ of Lots 834, 835, 7003, 7006, 7007, 7008, 7009, 7010, and 7011, Square 375, as the land for such lots may be subdivided into a record lot or lots or assessment and taxation lots in the future, shall be exempt from the tax imposed by Chapter 9 of this title.

“(c) The tax abatement pursuant to this section shall be in addition to, and not in lieu of, any other tax relief or development assistance from any other source applicable to the First Congregational United Church of Christ.”.

Section 6(b) of D.C. Law 18-101 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 2(b) of First Congregational United Church of Christ Property Tax Abatement Emergency Act of 2009 (D.C. Act 18-208, October 21, 2009, 56 DCR 8481).

**Legislative history of Law 18-49.** — Law 18-49, the “National Law Enforcement Museum Sales and Use Tax Credit Act of 2009”, was introduced in Council and assigned Bill No. 18-99, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on June 2, 2009, and June 16, 2008, respectively. Enacted without signature by the Mayor on June 26, 2009, it was assigned Act No. 18-124 and transmitted to both Houses of Congress for its review. D.C. Law 18-49 became effective on September 23, 2009.

## § 47-4623. View 14 Project tax exemption.

(a) For the purposes of this section, the term:

(1) “Developer” means L2CP, LLC, its successors, affiliates, and assigns.

(2) “View 14 Project” means the acquisition, development, construction, installation, and equipping, including the financing, refinancing, or reimburs-



ing of costs incurred of the mixed-use, multifamily residential and retail project under construction on the east side of 14th Street, N.W., between Florida Avenue and Belmont Street, to consist of:

(A) One hundred and eighty-five units of condominium/apartment house use totaling approximately 173,765 square feet of floor area, including a minimum of 6,000 square feet devoted to affordable housing for residents with an income that is no greater than 80% of the metropolitan Washington D.C. area media income;

(B) Approximately 13,903 square feet of retail space; and

(C) A below-grade parking garage.

(3) "View 14 Property" means the real property, including any improvements constructed thereon, described as Lot 155, Square 2868, as recorded on Page 68 of Book 201 in the Office of the Surveyor for the District of Columbia (or as the land for such lots may be subdivided into a record lot or lots or assessment and taxation lots, condominium lots, air rights lots, or any combination in the future).

(b)(1) The View 14 Property shall be exempt from real property taxation under Chapter 8 of this title for 20 consecutive years, 10 years at 100% and a 10% increase in years 11 through 20 until the annual real property taxation equals 100%.

(2) The View 14 Project shall be exempt from the tax imposed by Chapter 20 of this title on materials used directly for construction of the View 14 Project, which are incorporated into and become a part of the real property.

(3) The tax exemptions granted by paragraphs (1) and (2) of this subsection shall not exceed, in the aggregate, \$5.7 million.

(c) The tax exemptions pursuant to subsection (b) of this section shall be in addition to, and not in lieu of, any other tax relief or assistance from any other source applicable to the View 14 Project, the View 14 Property, or the developer.

(d) This section shall not prevent or restrict the developer from utilizing any other tax, development or other economic incentives available to the View 14 Project, the View 14 Property, or the developer.

(e) Nothing in this section shall be construed to limit the owner of the View 14 Property from appealing or contesting its real estate tax assessment.

(Mar. 3, 2010, D.C. Law 18-111, § 7201(b), 57 DCR 181.)

**Temporary Addition of Section.** — Section 2(b) of D.C. Law 18-21 added a section to read as follows:

"§ 47-4618. View 14 Project tax exemptions.

"(a) For the purposes of this section, the term:

"(1) 'Developer' means L2CP, LLC, its successors, affiliates, and assigns.

"(2) 'View 14 Project' means the acquisition, development, construction, installation, and equipping, including the financing, refinancing, or reimbursing of costs incurred of the mixed-use, multi-family residential and retail project under construction on the east side of 14th Street, N.W., between Florida Avenue and Belmont Street, to consist of:

"(A) One hundred and eighty-five units of condominium/apartment house use totaling approximately 173,765 square feet of floor area, including a minimum of 6,000 square feet devoted to affordable housing for residents within an income that is no greater than 80% of the metropolitan Washington, D.C. area media income;

"(B) Approximately 13,903 square feet of retail space; and

"(C) A below-grade parking garage.

"(3) 'View 14 Property' means the real property, including any improvements constructed thereon, located on Lot 155, Square 2868, as recorded on Page 68 of Book 201 in the Office of

the Surveyor for the District of Columbia (or as the land for such lots may be subdivided into a record lot or lots or assessment and taxation lots, condominium lots, air rights lots, or any combination in the future).

“(b)(1) The View 14 Property is hereby exempt from real property taxation under Chapter 8 for 20 consecutive years, 10 years at 100% and a 10% increase in years 11 through 20 until the annual real property taxation equals 100%.

“(2) The View 14 Project shall also be exempt from the District of Columbia sales tax on materials used directly for construction of the View 14 Project, which are incorporated into and become a part of the realty, subject to the provisions of § 47-1002, providing for exemption of certain real properties.

“(3) The tax exemptions granted by paragraphs (1) and (2) of this subsection shall not exceed, in the aggregate, \$5.7 million.

“(c) The tax exemptions pursuant to subsection (b) of this section shall be in addition to, and not in lieu of, any other tax relief or assistance from any other source applicable to the View 14 Project, the View 14 Property, or the Developer.

“(d) This section shall not prevent or restrict the Developer from utilizing any other tax,

development, or other economic incentives available to the View 14 Project, the View 14 Property, or the Developer.

“(e) Nothing in this section shall be construed to limit the owner of the View 14 Property from appealing or contesting its real estate tax assessment.”

Section 5(b) of D.C. Law 18-21 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 2 of View 14 Economic Development Emergency Act of 2009 (D.C. Act 18-32, March 16, 2009, 56 DCR 2337).

For temporary (90 day) addition, see § 7201(b) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see § 7201(b) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-305.02.

**Short title.** — Short title: Section 7200 of D.C. Law 18-111 provided that subtitle R of title VII of the act may be cited as the “View 14 Project Economic Development Act of 2009”.

## § 47-4624. The Urban Institute — 10-year real property tax abatement.

(a) Subject to subsection (b) of this section, the tax imposed by Chapter 8 of this title on the portion of the real property described as Lot 840, Square 673 that is owned by The Urban Institute, shall be abated during the following tax years in the following amounts:

(1) Tax year 2010: \$200,000; provided, that the abatement shall be applied to the 2nd semiannual installment;

(2) Tax year 2011: \$625,000;

(3) Tax year 2012: \$925,000;

(4) Tax year 2013: \$1.5 million;

(5) Tax year 2014: \$1.6 million;

(6) Tax year 2015: \$1.7 million;

(7) Tax year 2016: \$1.8 million;

(8) Tax year 2017: \$1.9 million;

(9) Tax year 2018: \$2 million;

(10) Tax year 2019: \$2.1 million; and

(11) Tax year 2020: \$650,000.

(b) The abatement of real property taxes provided for by subsection (a) of this section shall apply so long as:

(1) The real property continues to be owned and, except as set forth in paragraph (2) of this subsection, occupied by The Urban Institute;

(2) At least 10,000 square feet of the real property is leased at a rate below the market rate to tenants that are exempt from federal taxation under section



501(c)(3) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3)), and the leased real property is used for the tenants' exempt purposes; and

(3) The Urban Institute files the report required by § 47-1007(a), and includes the following:

(A) The name of each tenant of the real property that is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3));

(B) The square footage leased by each such tenant;

(C) A certification that each such tenant is being charged a lease rate that is below the market rate, a statement of the lease rate per square foot, and an explanation of the basis upon which the determination was made that each such tenant's lease rate is below the market rate; and

(D) Other information as may be required by the Chief Financial Officer.

(c) The Urban Institute shall be subject to § 47-1007(b) and (c).

(Mar. 3, 2010, D.C. Law 18-111, § 7161(b), 57 DCR 181.)

**Temporary Addition of Section.** — Section 2(b) of D.C. Law 17-376 added a section to read as follows:

“§ 47-4620. The Urban Institute—10-year real property tax abatement.

“(a) Subject to subsection (b) of this section, the tax imposed by Chapter 8 of this title on the portion of the real property described as Lot 840, Square 673, that is owned by The Urban Institute, shall be abated during the following tax years in the following amounts:

“(1) Tax year 2010: \$200,000; provided, that such abatement shall be applied to the 2nd semiannual installment;

“(2) Tax year 2011: \$625,000;

“(3) Tax year 2012: \$925,000;

“(4) Tax year 2013: \$1,500,000;

“(5) Tax year 2014: \$1,600,000;

“(6) Tax year 2015: \$1,700,000;

“(7) Tax year 2016: \$1,800,000;

“(8) Tax year 2017: \$1,900,000;

“(9) Tax year 2018: \$2,000,000;

“(10) Tax year 2019: \$2,100,000; and

“(11) Tax year 2020: \$650,000.

“(b) The abatement of real property taxes provided for by subsection (a) of this section shall apply so long as:

“(1) The real property continues to be owned and, except as set forth in paragraph (2) of this subsection, occupied by The Urban Institute;

“(2) At least 10,000 square feet of the real property is leased at a rate below the market rate to tenants that are exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3)), and the leased real property is used for the tenants' exempt purposes; and

“(3) The Urban Institute files the report required by § 47-1007(a) and:

“(A) The name of each tenant of the real property that is exempt from federal taxation under section 501(c)(3) of the Internal Revenue Code of 1986, approved August 16, 1954 (68A Stat. 163; 26 U.S.C. § 501(c)(3));

“(B) The square footage leased by each such tenant;

“(C) A certification that each such tenant is being charged a lease rate that is below the market rate, a statement of the lease rate per square foot, and an explanation of the basis under which the determination was made that each such tenant's lease rate is below the market rate; and

“(D) Such other information as may be required by the Chief Financial Officer.

“(c) The Urban Institute shall be subject to § 47-1007(b) and (f).”

Section 5(b) of D.C. Law 17-376 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 2(b) of The Urban Institute Real Property Tax Abatement Emergency Act of 2008 (D.C. Act 17-648, January 6, 2009, 56 DCR 904).

For temporary (90 day) addition, see § 7161(b) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see § 7161(b) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-305.02.

**Short title.** — Short title: Section 7160 of Urban Institute Real Property Tax Abatement D.C. Law 18-111 provided that subtitle N of Act of 2009". title VII of the act may be cited as the "The

## § 47-4625. Kelsey Gardens redevelopment project.

(a) The real property taxes imposed by Chapter 8 of this title [§ 47-801 et seq.] with respect to the real property described as Lots 67 and 68, Square 421, in the tax records of the District of Columbia as of [December 17, 2009], shall be abated in the amount in excess of the amount of the real property taxes imposed on the property as of October 1, 2009; provided, that the improvements on the real property project shall:

(1) Contain no less than 54 units of affordable housing for residents making 60% or less of current area median income;

(2) Contain approximately 15,000 square feet of ground-level retail space; and

(3) Have secured a mortgage from the U.S. Department of Housing and Urban Development or any other commercial mortgage entity for the development of this project.

(b) The real property tax abatement provided in subsection (a) of this section shall expire at the stated maturity date of a mortgage from the U.S. Department of Housing and Urban Development or in the event of other commercial financing the tax abatement commences with fiscal year 2010 and ends with the stated expiration date of the initial permanent mortgage without regard to prepayment or earlier termination; provided, that compliance with use restrictions provided in subsection (a) of this section continues following any such prepayment or earlier termination.

(Dec. 17, 2009, D.C. Law 18-97, § 2(b), 56 DCR 8528; Mar. 31, 2011, D.C. Law 18-343, § 2, 58 DCR 628; Sept. 14, 2011, D.C. Law 19-21, § 7102, 58 DCR 6226.)

**Effect of amendments.** — D.C. Law 18-343 rewrote subsecs. (a)(3) and (b), which had read as follows: "(3) Have secured a mortgage from the U.S. Department of Housing and Urban Development." "(b) The real property tax abatement provided in subsection (a) of this section shall expire at the stated maturity date of a mortgage from the U.S. Department of Housing and Urban Development, without regard to prepayment or earlier termination; provided, that compliance with use restrictions provided in subsection (a) of this section continues following any such prepayment or earlier termination."

D.C. Law 19-21, in subsec. (b), substituted "or in the event of other commercial financing the tax abatement commences with fiscal year 2010 and ends with the stated expiration date of the initial permanent mortgage without regard" for "or other commercial mortgage entity that provides construction and permanent financing without regard".

**Temporary Amendment of Section.** —

Section 2 of D.C. Law 18-263 rewrote subsecs. (a)(3) and (b) to read as follows:

"(3) Have secured a mortgage from the U.S. Department of Housing and Urban Development or any other commercial mortgage entity for the development of this project."

"(b) The real property tax abatement provided in subsection (a) of this section shall expire at the stated maturity date of a mortgage from the U.S. Department of Housing and Urban Development or other commercial mortgage entity that provides construction and permanent financing, without regard to prepayment or earlier termination; provided, that compliance with use restrictions provided in subsection (a) of this section continues following any such prepayment or earlier termination."

Section 4(b) of D.C. Law 18-263 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 2 of



Kelsey Gardens Redevelopment Project Real Property Limited Tax Abatement Assistance Clarification Emergency Act of 2010 (D.C. Act 18-519, July 30, 2010, 57 DCR 7995).

For temporary (90 day) amendment of section 3 of D.C. Law 18-97, see § 7032 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

For temporary (90 day) amendment of section, see § 2 of Kelsey Gardens Redevelopment Project Real Property Limited Tax Abatement Assistance Clarification Congressional Review Emergency Act of 2010 (D.C. Act 18-571, October 20, 2010, 57 DCR 10086).

**Legislative history of Law 18-97.** — Law 18-97, the “Kelsey Gardens Redevelopment Project Real Property Limited Tax Abatement Assistance Act of 2009”, as introduced in Council and assigned Bill No. 18-222, which was referred to the Committee on Finance and Revenue. The bill as adopted on first and second readings on September 22, 2009, and October 6, 2009, respectively. Effective without the Mayor’s signature on October 21, 2009, it was assigned Act No. 18-224 and transmitted to both Houses of Congress for its review. D.C. Law 18-97 became effective on December 17, 2009.

**Legislative history of Law 18-343.** — Law 18-343, the “Kelsey Gardens Redevelopment Project Real Property Limited Tax Abatement Assistance Act of 2010”, was introduced in Council and assigned Bill No. 18-1010, which

was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on January 12, 2011, it was assigned Act No. 18-688 and transmitted to both Houses of Congress for its review. D.C. Law 18-343 became effective on March 31, 2011.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 47-305.02.

**Short title.** — Short title: Section 7031 of D.C. Law 18-223 provided that subtitle D of title VII of the act may be cited as the “Kelsey Gardens Redevelopment Project Real Property Limited Tax Abatement Assistance Amendment Act of 2010”.

Short title: Section 7101 of D.C. Law 19-21 provided that subtitle K of title VII of the act may be cited as “Kelsey Gardens Redevelopment Project Real Property Limited Tax Abatement Assistance Amendment Act of 2011”.

**Editor’s notes.** — Section 3 of D.C. Law 18-97, as amended by section 7032 of D.C. Law 18-223, provided:

“Sec. 3. Applicability.

“(a) This act shall apply in fiscal years 2010, 2011, and 2012.

“(b) This act shall apply in fiscal year 2013 and later fiscal years upon the inclusion in an approved budget and financial plan of the fiscal effect of this act in those fiscal years.”

Section 7102(b) of D.C. Law 19-21 repealed section 7032 of D.C. Law 18-223.

## § 47-4626. Randall School development project tax exemption.

The real property described as Lot 801, Square 643S, known as the Randall School development project, owned by the Trustees of the Corcoran Gallery of Art, a nonprofit corporation, shall be exempt from the tax imposed by Chapter 8 of this title, beginning October 1, 2008, and for so long as the Trustees of the Corcoran Gallery of Art own the real property; provided, that the exemption shall cease once a certificate of occupancy issues for any part of the Randall School development project. The exemption shall be in addition to, and not in lieu of, any other tax relief or assistance from any other source applicable to the Randall School development project.

(Mar. 3, 2010, D.C. Law 18-111, § 7171(b), 57 DCR 181.)

**Temporary Addition of Section.** — Section 2(b) of D.C. Law 18-6 added a section to read as follows: “§ 47-4620. Randall School development project tax exemption. “The real property described as Lot 801, Square 643S, known as the Randall School development project, owned by the Trustees of the Corcoran Gallery of Art, a nonprofit corporation, shall be

exempt from the tax imposed by Chapter 8 of this title, beginning October 1, 2008, and for so long as the Trustees of the Corcoran Gallery of Art own the real property; provided, that the exemption shall cease once a certificate of occupancy issues for any part of the Randall School development project. The exemption shall be in addition to, and not in lieu of, any other tax

relief or assistance from any other source applicable to the Randall School development project.”.

Section 5(b) of D.C. Law 18-6 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 2 of Randall School Development Project Tax Exemption Emergency Act of 2009 (D.C. Act 18-23, February 25, 2009, 56 DCR 1954).

For temporary (90 day) addition, see § 7171(b) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see § 7171(b) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) addition, see § 2 of Randall School Disposition Restatement Emergency Act of 2010 (D.C. Act 18-540, October 5, 2010, 57 DCR 9612).

For temporary (90 day) addition of section, see § 2 of Randall School Disposition Restatement Congressional Review Emergency Act of 2011 (D.C. Act 19-2, February 2, 2011, 58 DCR 1238).

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-305.02.

**Short title.** — Short title: Section 7170 of D.C. Law 18-111 provided that subtitle O of title VII of the act may be cited as the “Randall School Development Project Tax Relief Act of 2009”.

**Editor’s notes.** — Section 2 of D.C. Law 18-294 provided:

“Sec. 2. (a) Notwithstanding the requirements and the conditions established in the Randall School Sale Approval Resolution of 2004, effective December 21, 2004 (Res. 15-818; 52 DCR 250), the Council authorizes the Mayor to amend the declaration of covenants recorded as Instrument No. 2006160472, against Lot 0801, Square 0643-S (‘Property’); provided, that the amendment contains the following terms and conditions:

“(1) The Property shall be developed into a mixed-use development that will include no less than 25,000 square feet comprised of either a nonprofit art museum or a nonprofit art gallery, or both, and that may also include

residential, hotel, art uses, retail, commercial, and other ancillary uses;

“(2) The developer of the Property (‘Developer’) shall enter into an agreement with the Department of Small and Local Business Development to comply with the requirements of the Small, Local, and Disadvantaged Business Enterprise Development and Assistance Act of 2005, effective October 20, 2005 (D.C. Law 16-33; D.C. Official Code § 2-218.01 et seq.);

“(3) The Developer shall enter into a First Source Agreement with the District of Columbia establishing that the purchaser or any developer of the property must comply with the First Source Employment Agreement Act of 1984, effective June 29, 1984 (D.C. Law 5-93; D.C. Official Code § 2-219.03), and Mayor’s Order 83-265 (November 9, 1983), regarding job creation and employment generated as a result of construction on the property;

“(4) Twenty percent of all residential units developed on the Property shall be sold or rented exclusively to households with incomes less than, or equal to, 80% of the area median income;

“(5) The first phase of development on the Property shall include 125,000 square feet of development; of the 125,000 square feet developed on the property, no less than 25,000 square feet shall comprise either a nonprofit art museum or a nonprofit art gallery, or both;

“(6) If the Developer disposes of all or any part of the Property prior to commencement of construction on the first phase of the development of the Property, the District shall be entitled to receive 40% of the profit realized from the disposition; and

“(7) The District shall have the right to reacquire the Property with any improvements if the Developer does not commence construction on the first phase of the development of the Property by January 1, 2018.

“(b) Notwithstanding the requirements and conditions established in the Randall School Sale Approval Resolution of 2004, effective December 21, 2004 (Res. 15-818; 52 DCR 250), the Council authorizes the Mayor to convey certain access easements over former Half Street, S.W., currently known for purposes of taxation and assessment as a portion of Lot 813, Square 0644, to the Trustees of the Corcoran Gallery of Art, its successors, and assigns, to enable the development of Lot 0801, Square 0643-S.”

## § 47-4627. 14W and the YMCA Anthony Bowen Project; Lot 164 (formerly Lots 18, 19, 20, 120, 121, 160, 161, 828, and 835), Square 234.

(a) For the purposes of this section, the term:

(1) “14W and the YMCA Anthony Bowen Project” means the acquisition,



development, construction, installation, and equipping of a mixed-use project on the 14W and the YMCA Anthony Bowen Property, including the redevelopment of the historic Anthony Bowen YMCA, the construction of 231 units of rental housing, of which 18 will be affordable units at 60% or less of area median income, 12,200 square feet of ground-level retail space, and 170 below-grade parking spaces.

(2) "14W and the YMCA Anthony Bowen Property" means the real property, including any improvements constructed thereon, described as Lot 164 (formerly Lots 18, 19, 20, 120, 121, 160, 161, 828, and 835), Square 234, owned by the Young Men's Christian Association of Metropolitan Washington and RP Jefferson 14, LLC (or as the land for such lots may be subdivided into a record lot or lots or assessment and taxation lots, condominium lots, air rights lots, or any combination in the future).

(b) The tax imposed by Chapter 8 of this title on the 14W and the YMCA Anthony Bowen Property shall be abated for 20 consecutive years as follows:

(1) In years one through 10, the tax shall be capped at \$68,400 annually, to be allocated pro rata among any then-existing taxable lots;

(2) Beginning in year 11, the tax shall be abated to the extent it exceeds 10% of the tax otherwise imposed by Chapter 8 of this title, with the tax liability increasing 10% per year in years 12 through 20 until the tax equals 100% of the tax imposed by Chapter 8 of this title.

(c) The 14W and the YMCA Anthony Bowen Project shall be exempt from the tax imposed by Chapter 20 of this title on materials used directly for construction of the 14W and the YMCA Anthony Bowen Project.

(d) This section shall not prevent or restrict the owners of the 14W and the YMCA Anthony Bowen Property from utilizing any other tax, development, or other economic incentives available.

(Mar. 3, 2010, D.C. Law 18-111, § 7191(b), 57 DCR 181; Mar. 12, 2011, D.C. Law 18-320, § 2(b), 57 DCR 12435.)

**Effect of amendments.** — D.C. Law 18-320 rewrote the section, which formerly read:

"(a) For the purposes of this section, the term:

"(1) '14W and the YMCA Anthony Bowen Project' means the acquisition, development, construction, installation, and equipping of a mixed-use project on the 14W and the YMCA Anthony Bowen Property, including the redevelopment of the historic Anthony Bowen YMCA, the construction of 231 units of rental housing, of which 18 will be affordable units at 60% or less of area median income, 12,200 square feet of ground-level retail space, and 170 below-grade parking spaces.

"(2) '14W and the YMCA Anthony Bowen Property' means the real property described as Lot 164, Square 234, owned by Perseus Realty, LLC.

"(b) The 14W and the Anthony Bowen Property shall be exempt from real property taxation under Chapter 8 of this title for 20 consecutive years as follows: 10 years capped at the Fiscal Year 2008 rate, and thereafter a 10%

increase allowed per annum in years 11 through 20, until the annual real property taxation equals 100%.

"(c) The 14W and the YMCA Anthony Bowen Project shall be exempt from the tax imposed by Chapter 20 of this title on materials used directly for construction of the 14W and the YMCA Anthony Bowen project.

"(d) The exemptions set forth in subsections (b) and (c) of this section shall continue so long as the 14W and the YMCA Anthony Bowen Project consists of:

"(1) Two hundred and thirty-one rental apartment units (18 of which are inclusionary zoning units, to be permanently reserved for residents making 60% or less of current area median income);

"(2) A 170-space, below-grade garage, 12,200 square feet of ground-floor retail space; and

"(3) The new YMCA Anthony Bowen, a 45,000 square-foot, state-of-the-art community and wellness facility dedicated to the growing needs of the District's residents."

Temporary Amendment of Section Section 2(b) of D.C. Law 18-262 rewrote the section to read as follows:

**Temporary legislation.** — “§ 47-4627. 14W and the YMCA Anthony Bowen Project; Lot 164 (formerly Lots 18, 19, 20, 120, 121, 160, 161, 828, and 835), Square 234.

“(a) For the purposes of this section, the term:

“(1) ‘14W and the YMCA Anthony Bowen Project’ means the acquisition, development, construction, installation, and equipping of a mixed-use project on the 14W and the YMCA Anthony Bowen Property, including the redevelopment of the historic Anthony Bowen YMCA, the construction of 231 units of rental housing, of which 18 will be affordable units at 60% or less of area median income, 12,200 square feet of ground-level retail space, and 170 below-grade parking spaces.

“(2) ‘14W and the YMCA Anthony Bowen Property’ means the real property, including any improvements constructed thereon, described as Lot 164 (formerly Lots 18, 19, 20, 120, 121, 160, 161, 828, and 835), Square 234, owned by Perseus Realty, LLC (or as the land for such lots may be subdivided into a record lot or lots or assessment and taxation lots, condominium lots, air rights lots, or any combination in the future).

“(b) The 14W and the Anthony Bowen Property shall be exempt from real property taxation under Chapter 8 of this title for 20 consecutive years as follows:

“(c) The 14W and the YMCA Anthony Bowen Project shall be exempt from the tax imposed by Chapter 20 of this title on materials used directly for construction of the 14W and the YMCA Anthony Bowen project.

“(d) The exemptions set forth in subsections (b) and (c) of this section shall continue so long as the 14W and the YMCA Anthony Bowen Project consists of:

“(1) Two hundred and thirty-one rental apartment units (18 of which are inclusionary zoning units, to be permanently reserved for residents making 60% or less of current area median income);

“(2) A 170-space, below-grade garage, and 12,200 square feet of ground-floor retail space; and

“(3) The new YMCA Anthony Bowen, a 45,000 square-foot, state-of-the-art community and wellness facility dedicated to the growing needs of the District’s residents.”.

Section 4(b) of D.C. Law 18-262 provided that the act shall expire after 225 days of its having taken effect.

**Temporary Addition of Section.** — Section 2 of D.C. Law 17-375 added a section to read as follows:

“§ 47-4621. 14W and the YMCA Anthony Bowen Project—Lot 164 in Square 234.

“(a) The properties located in the District of Columbia described as Square 234, Lot 164, owned by Perseus Realty, LLC, are hereby exempt from real property taxation under Chapter 8 for 20 consecutive years: 10 years capped at the fiscal year 2008 rate, and thereafter a 10% increase allowed per annum in years 11 through 20, until the annual real property taxation equals 100%.

“(b) The 14W and the YMCA Anthony Bowen Project shall be exempt from the tax imposed by Chapter 20 of this title on materials used directly for construction of the 14W and YMCA Anthony Bowen project, subject to the provisions of § 47-1002, providing for exemption of certain real properties.

“(c) The 14W and the YMCA Anthony Bowen Project is exempt from District taxes as described in this section so long as the project consists of 231 rental apartment units (18 of which are IZ units, to be permanently reserved for residents making 60% or less of current area median income) and a 170-space, below-grade garage, 12,200 square feet of ground-floor retail space, and the new YMCA Anthony Bowen, a 45,000-square-foot, state-of-the-art community and wellness facility dedicated to the growing needs of the District’s residents.”.

Section 5(b) of D.C. Law 17-375 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 2(b) of 14W and the YMCA Anthony Bowen Project Real Property Tax Exemption and Real Property Tax Relief Emergency Act of 2008 (D.C. Act 17-647, January 6, 2009, 56 DCR 902).

For temporary (90 day) addition, see § 7191(b) of Fiscal Year 2010 Budget Support Second Emergency Act of 2009 (D.C. Act 18-207, October 15, 2009, 56 DCR 8234).

For temporary (90 day) addition, see § 7191(b) of Fiscal Year Budget Support Congressional Review Emergency Amendment Act of 2009 (D.C. Act 18-260, January 4, 2010, 57 DCR 345).

For temporary (90 day) amendment of section, see § 2(b) of 14W and Anthony Bowen YMCA Project Tax Abatement Implementation Clarification Emergency Act of 2010 (D.C. Act 18-506, July 30, 2010, 57 DCR 7582).

For temporary (90 day) amendment of section, see § 2(b) of 14W and Anthony Bowen YMCA Project Tax Abatement Implementation Clarification Congressional Review Emergency Act of 2010 (D.C. Act 18-574, October 20, 2010, 57 DCR 10100).

**Legislative history of Law 18-111.** — For Law 18-111, see notes following § 47-305.02.

**Legislative history of Law 18-320.** — Law 18-320, the “14W and Anthony Bowen YMCA Project Tax Abatement Implementation Clarification Act of 2010”, was introduced in Council



and assigned Bill No. 18-898, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 9, 2010, and November 23, 2010, respectively. Signed by the Mayor on December 9, 2010, it was assigned Act No. 18-641 and transmitted to both Houses of Congress for its review. D.C. Law 18-320 became effective on March 12,

**Short title.** — Short title: Section 7190 of D.C. Law 18-111 provided that subtitle Q of title VII of the act may be cited as the “14W and YMCA Anthony Bowen Project Real Property Tax Exemption and Real Property Tax Relief Act of 2009”.

**Editor’s notes.** — Section 3 of D.C. Law 18-320 provided: “Sec. 3. Applicability. Section 2 shall apply as of October 1, 2011.”

## § 47-4628. The Heights on Georgia Avenue; Lots 98, 903, 904, 908, and 911, Square 2892.

(a) For the purposes of this section, the term:

(1) “Affordable Units” means residential units affordable to households with incomes between 60% and 80% of the area median income of the Washington, D.C. metropolitan statistical area as determined annually by the United States Department of Housing and Urban Development, or its successor agency, which units shall comprise no less than  $\frac{1}{2}$  of the total number of units in The Heights on Georgia Avenue Project.

(2) “Housing Element” means residential units, which shall be not less than 65 in total, and accessory parking in The Heights on Georgia Avenue Project.

(3) “The Heights on Georgia Avenue Developer” means the person (or any successor in interest) who will develop The Heights on Georgia Avenue Project with Affordable Units above first-floor retail. The term “The Heights on Georgia Avenue Developer” shall not include any owner or operator of the first-floor commercial or retail space and shall not apply to any subsequent owner of a residential condominium unit in The Heights on Georgia Avenue Project.

(4) “The Heights on Georgia Avenue Project” means a residential and retail mixed-use project, including at least 65 residential units, constructed on the following lots in Square 2892: Lots 98, 903, 904, 908, and 911 (which may be expanded to include Lots 875 and 114) and the alley between them (or as the land for such lots and the alley may be subdivided into a record lot or lots or assessment and taxation lots, condominium lots, or any combination in the future).

(b) Beginning on the 1st day of the half tax year immediately following the date on which site preparation begins, as evidenced by either the issuance of a demolition permit, grading permit, or excavation permit, whichever is issued first, the Housing Element shall be exempt from real property taxation under Chapter 8 of this title; provided, that the following occurs:

(1) The first level of concrete shall be laid for The Heights on Georgia Avenue Project by December 31, 2011;

(2) A certificate of occupancy for the Housing Element shall have been issued within 24 months after the first level of concrete has been laid; and

(3) The Affordable Units shall be registered online within 60 days of issuance of the certificate of occupancy for the Housing Element on the housing locator at [www.dchousingsearch.org](http://www.dchousingsearch.org), and the Department of Housing and

Community Development issues a written certification that the units are registered and will be monitored for compliance.

(c) For each deadline set forth in subsection (b) of this section, extensions may be granted at the discretion of the Mayor.

(d) If the deadlines set forth in subsection (b) of this section, as they may be extended by the Mayor as provided in subsection (c) of this section, are not met, The Heights on Georgia Avenue Developer shall pay to the District a sum equal to the amount of real property tax that would have been imposed on The Heights on Georgia Avenue Project in the absence of the exemption provided in subsection (b) of this section.

(e) The exemption from real property taxation provided in subsection (b) of this section shall expire on the date that is the last day of the half tax year immediately following the earlier of:

(1) The passage of 30 years; or

(2) The date on which the Housing Element no longer has at least 50% of the total units of The Heights on Georgia Avenue Project designated for use as Affordable Units.

(f) For the purposes of § 47-831(b), the owner shall have a duty to inform the Office of Tax and Revenue when the Housing Element is no longer entitled to the exemption granted by subsection (b) of this section.

(g) Notwithstanding any other provision of law, no fees shall be charged to The Heights on Georgia Avenue Developer for any permits related to the construction of The Heights on Georgia Avenue Project, including private space or building permit fees or public space permit fees. The exemption provided by this subsection shall not include inspection fees for such permits, condominium registration application fees, or condominium conversion fees.

(Mar. 23, 2010, Law 18-124, § 2(b), 57 DCR 1175; July 13, 2012, D.C. Law 19-158, § 2(c), 59 DCR 5689.)

**Effect of amendments.** — D.C. Law 19-158, in subsec. (b)(1), substituted “December 31, 2011” for “December 31, 2010”; and, in subsec. (c), substituted “section, extensions” for “section, one 6-month extension”.

**Temporary Amendment of Section.** — Section 2 of D.C. Law 19-31, in subsec. (b)(1), substituted “December 31, 2011” for “December 31, 2010”; and, in subsec. (c), substituted “section, extensions” for “section, one 6-month extension”.

Section 4(b) of D.C. Law 19-31 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) repeal of section 3 of D.C. Law 18-124, see § 7002 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

For temporary (90 day) amendment of section, see § 2 of Heights on Georgia Avenue Development Extension Emergency Act of 2011 (D.C. Act 19-75, June 23, 2011, 58 DCR 5375).

For temporary (90 day) amendment of sec-

tion, see § 2 of Heights on Georgia Avenue Development Extension Congressional Review Emergency Act of 2011 (D.C. Act 19-161, October 11, 2011, 58 DCR 8888).

**Legislative history of Law 18-124.** — Law 18-124, the “Heights on Georgia Avenue Tax Exemption Act of 2010”, was introduced in Council and assigned Bill No. 18-45, which was referred to the Committee on Finance and Revenue. The bill was adopted on first and second readings on December 15, 2009, and January 5, 2010, respectively. Signed by the Mayor on January 25, 2010, it was assigned Act No. 18-286 and transmitted to both Houses of Congress for its review. D.C. Law 18-124 became effective on March 23, 2010.

**Legislative history of Law 19-158.** — Law 19-158, the “Jubilee Housing Residential Rental Project Real Property Tax Exemption Clarification Act of 2012”, was introduced in Council and assigned Bill No. 19-538, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 17, 2012, and May 1,



2012, respectively. Signed by the Mayor on May 15, 2012, it was assigned Act No. 19-365 and transmitted to both Houses of Congress for its review. D.C. Law 19-158 became effective on July 13, 2012.

**Short title.** — Short title: Section 7001 of D.C. Law 18-223 provided that subtitle A of title VII of the act may be cited as the “Budget Financing Contingencies Amendment Act of 2010”.

**Delegation of Authority.** — Delegation of Authority Pursuant to Heights of Georgia Ave-

nue Tax Exemption Act of 2010, see Mayor’s Order 2010-177, November 26, 2010 (57 DCR 11422).

**Editor’s notes.** — Section 7002 of D.C. Law 18-223 repealed section 3 of D.C. Law 18-124.

Section 3 of D.C. Law 19-158 provided: “Sec. 3. Applicability. Section 2(a) and (b) shall apply as of October 1, 2010.”

Section 3 of D.C. Law 18-124 provided: “Sec. 3. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.”

## § 47-4629. Park Place at Petworth, Highland Park, and Highland Park Phase II Project tax exemptions.

(a) For the purposes of this section, the term:

(1) “AMI” means the median income for the Washington, D.C. metropolitan area.

(2) “Developer” means CJUF II Park Place at Petworth, LLC, CHVP26, LLC, or Highland Park West, LLC, and their successors, affiliates, and assigns, either collectively or individually.

(3) “Park Place at Petworth, Highland Park, and Highland Park Phase II Projects” means the acquisition, development, construction, installation, and equipping, including the financing, refinancing, or reimbursing of costs incurred, of the mixed-use multi-family residential and retail projects located at 850 Quincy Street, N.W., the southwest corner of Irving Street and 14th Street, N.W., and 1444 Irving Street, N.W., either collectively or individually, consisting of:

(A) For Park Place at Petworth:

(i) A condominium/apartment house of 161 units totaling approximately 138,899 square feet of net residential floor area, including a minimum of 27,780 square feet devoted to affordable housing, with 5% of net residential square foot area for residents with an income not exceeding 30% of AMI, 10% of net residential square foot area for residents with an income not exceeding 50% of AMI, and 5% of net residential square foot area for residents with an income not exceeding 60% of AMI;

(ii) Approximately 17,200 square feet of retail space; and

(iii) A below-grade parking garage;

(B) For Highland Park:

(i) A condominium/apartment house of 229 units totaling approximately 206,490 square feet of net residential floor area, including a minimum of 41,298 square feet devoted to affordable housing, with 5% of net residential square foot area for residents with an income not exceeding 30% of AMI, 5% of net residential square foot area for residents with an income not exceeding 60% of AMI, and 10% of net residential square foot area for residents with an income not exceeding 80% of AMI;

(ii) Approximately 17,069 square feet of net retail space; and

(iii) A below-grade parking garage;

(C) For Highland Park Phase II: A condominium/apartment house with a minimum of 69 units, totaling a minimum of 63,221 square feet net rentable square feet of residential area, including a minimum of 12,644 square feet of the gross residential floor area being devoted to affordable housing, with 5% of net residential square foot area for residents with an income not exceeding 30% of AMI, 5% of net residential square foot area for residents with an income not exceeding 60% of AMI, and 10% of net residential square foot area for residents with an income not exceeding 80% of AMI, and a community-based residential facility with 82 beds and approximately 26,429 gross square feet of building area.

(4) “Park Place at Petworth, Highland Park, and Highland Park Phase II Properties” means the real property, including any improvements constructed thereon, located on Lot 44, Square 2900, as recorded on Page 76, Book 199 in the Office of the Surveyor for the District of Columbia; located on Lot 884 (Part of Lot 727), Square 2672, as recorded on Page 9, Book 199 in the Office of the Surveyor for the District of Columbia; and located on Lot 726, Square 2672, recorded in Page 9, Book 199 (or as the land for such lots may be subdivided into a record lot or lots or assessment and taxation lots, condominium lots, air rights lots, or any combination in the future), either collectively or individually.

(b) Beginning on October 1, 2010, the Park Place at Petworth, Highland Park, and Highland Park Phase II Properties shall be exempt from the real property tax imposed by Chapter 8 of this title for 20 years as follows: 10 years at 50% and a 5% increase in years 11 through 20 until the annual real property taxation equals 100%.

(b-1) All interest and penalties associated with real property taxes that have been assessed for the period beginning on October 1, 2008, and ending 45 days after [September 24, 2010], against the Park Place at Petworth, Highland Park, or Highland Park Phase II Properties, shall be forgiven, and any payments already made for this period, as of [September 24, 2010], shall be refunded or credited against real property taxes owed on the properties.

(c) The tax exemption pursuant to subsection (b) of this section shall be in addition to, and not in lieu of, any other tax relief or assistance from any other source applicable to the Park Place at Petworth, Highland Park, and Highland Park Phase II Projects, the Park Place at Petworth, Highland Park, and the Highland Park Phase II Properties, or the developer.

(d) This section shall not:

(1) Prevent or restrict the developer from utilizing any other tax, development, or other economic incentives available to the Park Place at Petworth, Highland Park, and the Highland Park Phase II Projects, the Park Place at Petworth, Highland Park, and Highland Park Phase II Properties, or the developer.

(2) Limit the owner of the Park Place at Petworth, Highland Park, or the Highland Park Phase II Properties from appealing or contesting its real estate tax assessment.

(Mar. 23, 2010, D.C. Law 18-128, § 2(b), 57 DCR 1186; Sept. 24, 2010, D.C. Law 18-223, § 7023, 57 DCR 6242.)



**Effect of amendments.** — D.C. Law 18-223 rewrote subsec. (b); and added subsec. (b-1). Prior to amendment, subsec. (b) read as follows: “(b) The Park Place at Petworth, Highland Park, and Highland Park Phase II Properties shall be exempt from real property taxation under Chapter 8 of this title for 20 consecutive years as follows: 10 years at 100% and a 10% increase in years 11 through 20 until the annual real property taxation equals 100%.”

**Emergency legislation.** — For temporary (90 day) repeal of section 3 of D.C. Law 18-128, see § 7022 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

For temporary (90 day) amendment of section, see § 7023 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

**Legislative history of Law 18-128.** — Law 18-128, the “Park Place at Petworth, Highland Park, and Highland Park Phase II Economic Development Act of 2010”, was introduced in Council and assigned Bill No. 18-231, which

was referred to the Committee on Finance and Revenue. The bill was adopted on first and second readings on December 15, 2009, and January 5, 2010, respectively. Signed by the Mayor on January 25, 2010, it was assigned Act No. 18-290 and transmitted to both Houses of Congress for its review. D.C. Law 18-128 became effective on March 23, 2010.

**Legislative history of Law 18-223.** — For Law 18-223, see notes following § 47-355.05.

**Short title.** — Short title: Section 7021 of D.C. Law 18-223 provided that subtitle C of title VII of the act may be cited as the “Park Place at Petworth, Highland Park, and Highland Park Phase II Economic Development Amendment Act of 2010”.

**Editor’s notes.** — Section 7022 of D.C. Law 18-223 repealed section 3 of D.C. Law 18-128. section 3 of D.C. Law 18-128 provided:

“Sec. 3. Applicability. (a) This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.

“(b) Section 2 shall apply to tax years beginning October 1, 2008.”

## § 47-4630. Tax abatements for high technology commercial real estate database and service providers.

(a) For the purposes of this section, the term:

(1) “High technology commercial real estate database and service provider” means a business entity that provides access to clients via the Internet to its database of commercial real estate information throughout the United States.

(2) “Priority development area” means:

(A) A priority development area as defined in § 47-3801(1A);

(B) A high technology development zone as defined in § 47-1817.06(a)(2);

(C) The Southeast Federal Center/Navy Yard Area, which shall consist of land within the boundary description beginning at the intersection of Interstate 395/295 (SW/SE Freeway), and the Anacostia River Waterfront, S.W.; northwest to 14th Street, S.W.; south on 14th Street, S.W., to the Washington Channel Waterway; east along Washington Channel to the Anacostia River eastern banks; and adjacent areas encompassing the public housing and residential parcels adjacent to the Navy Yard, 8th Street commercial corridor, Marine Barracks, and Buzzards Point area.

(3) “Real property” shall have the same meaning as in § 47-802.

(b) Subject to subsections (f), (g), and (h) of this section, the real property taxes imposed by Chapter 8 of this title with respect to real property purchased or leased and occupied by a high technology commercial real estate database and service provider shall be fully abated for 10 years, beginning the first day of the tax year following the purchase of the real property or the execution of the lease of the real property; provided, that:

(1) The real property continues to be occupied by the high technology commercial real estate database and service provider during the duration of the abatement period and is located in a priority development area;

(2) If the real property is leased, the lease for the real property is for a period of at least 10 years;

(3) The total combined abatements under this section shall not exceed:

(A) \$700,000 per fiscal year; and

(B) \$6.185 million total over 10 years;

(4) The company receiving the benefit of the abatement:

(A) Is a high technology commercial real estate database and service provider;

(B) Employs a minimum of 250 employees within the District; and

(C) Shall have entered into an agreement with the Department of Small and Local Business Development requiring that any tenant design, build-out, and improvements within the tenant's leased or owned space receiving the tax abatement be contracted with certified local, small, and disadvantaged business enterprises, as certified in accordance with § 2-218.01, for at least 35% of the contract dollar volume of the design, build-out, and improvements;

(5) If the real property is leased, the real property owner shall pass through the abatement to the high technology commercial real estate database and service provider;

(6) No person shall claim an abatement pursuant to this section unless the person occupies real property in the District before January 1, 2011;

(7) No person shall claim an abatement pursuant to this section for an aggregate period of more than 10 years; and

(8) Notwithstanding any other provision of this section, no person shall claim an abatement pursuant to this section prior to October 1, 2010.

(c) If the real property that is the subject of the abatement under section (b) of this section is a portion of a larger unit of real property that is assessed for real property tax under Chapter 8 of this title, the abatement shall be applied by reducing the assessment of the larger unit of real property by the ratio that the square footage of the occupied portion bears to the square footage of the larger unit of real property.

(d) The abatement shall be deducted from the real property tax bill or by issuing a refund (in the same amount as what would have been the abatement) to the high technology commercial real estate database and service provider, notwithstanding § 47-811.02, at the discretion of the Office of Tax and Revenue. The Office of Tax and Revenue may apply the abatement to any half of the tax year.

(e) If the high technology commercial real estate database and service provider shall cease to qualify for the abatement, the abatement shall cease on the first day of the month following the day when the Mayor certifies the disqualification to the Office of Tax and Revenue.

(f) The Mayor shall certify to the Office of Tax and Revenue the identity of each high technology commercial real estate database and service provider for which compliance under subsection (b) of this section has been verified by the Mayor, a description of each real property that is the subject of the abatement provided by this section, and the date on which the abatement shall begin.



(g) The abatement pursuant to this section shall apply once the high technology commercial real estate database and service provider has certified to the Department of Employment Services that the provider has hired at least 100 employees residing in the District of Columbia beyond the number of employees residing in the District of Columbia as of January 5, 2010 (“baseline number”); provided, that the high technology commercial real estate database and service provider shall maintain the baseline number throughout the entire term of the abatement. The failure to maintain the baseline number shall result in the forfeiture of the abatement during any period in which the baseline number is not met.

(h) Funds shall be sufficient within an approved budget and financial plan to support the fiscal impact of a tax abatement under this section.

(Mar. 23, 2010, D.C. Law 18-133, § 2(b), 57 DCR 1201.)

**Temporary Addition of Section.** — Section 2(b) of D.C. Law 18-169 added a section to read as follows:

“§ 47-4631. International House of Pancakes Restaurant #3221-tax exemption clarification.

“The real property, described as Lot 819, Square 5912, known as the International House of Pancakes Restaurant #3221, owned by CHR, LLC, and leased to Fathers and Sons, LLC (‘Property’), shall be exempt from the tax imposed by Chapter 8 of this title for the period beginning October 1, 2007, and ending September 7, 2009, in accordance with § 47-1002(23), notwithstanding the requirements of § 47-1002(23)(B)(iv). The tax exemption pursuant to this section shall be in addition to, and not in lieu of, any other tax relief or assistance from any other source applicable to the International House of Pancakes Restaurant located on the Property.”

Section 5(b) of D.C. Law 18-169 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 2(b) of IHOP Restaurant #3221 Tax Exemption Clarification Emergency Act of 2010 (D.C. Act 18-343, March 22, 2010, 57 DCR 2854).

For temporary (90 day) amendment of section, see § 2 of Third & H Streets, N.E. Economic Development Technical Clarification Emergency amendment Act of 2010 (D.C. Act 18-392, May 7, 2010, 57 DCR 4344).

For temporary (90 day) repeal of section 3 of D.C. Law 18-169, see § 7010 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

**Legislative history of Law 18-133.** — Law 18-133, the “High Technology Commercial Real Estate Database and Service Providers Tax Abatement Act of 2010”, was introduced in Council and assigned Bill No. 18-476, which was referred to the Committee on Finance and

Revenue. The bill was adopted on first and second readings on December 15, 2009, and January 5, 2010, respectively. Signed by the Mayor on January 25, 2010, it was assigned Act No. 18-295 and transmitted to both Houses of Congress for its review. D.C. Law 18-133 became effective on March 23, 2010.

**Delegation of Authority.** — Delegation of Authority under High Technology Commercial Real Estate Database and Service Providers Tax Abatement Act of 2010, see Mayor’s Order 2010-184, December 31, 2010 (57 DCR 12645).

**Editor’s notes.** — Sections 3 and 4 of D.C. Law 18-133 provided:

“Sec. 3. Funding for tax abatements for high technology commercial real estate database and service providers.

“The Office of the Deputy Mayor for Planning and Economic Development shall transfer up to \$700,000 annually from the industrial revenue bond special account established under D.C. Official Code § 47-131(c)(4), or other appropriate fund, to the General Fund of the District of Columbia to offset revenue reductions for qualified high technology commercial real estate database and service providers.

“Sec. 4. Development of comprehensive strategy for attracting business.

“The Mayor shall develop a comprehensive strategy, within 90 days of the effective date of this act, that identifies a uniform process for attracting businesses to the District of Columbia.”

Section 7010 of D.C. Law 18-223 repealed section 3 of D.C. Law 18-169.

The Budget Director of the Council of the District of Columbia has determined, as of February 15, 2012, that the fiscal effect of Law 18-335 has not been included in an approved budget and financial plan, except for funding through Fiscal Year 2013 for CoStar. That determination, however, does not affect the codification of this section.

**§ 47-4631. OTO Hotel at Constitution Square Project—tax exemptions [Not funded].**

[Not funded].

(July 1, 2010, D.C. Law 18-188, § 2(b), 57 DCR 4497.)

**Legislative history of Law 18-188.** — Law 18-188, the “OTO Hotel at Constitution Square Economic Development Act of 2010”, was introduced in Council and assigned Bill No. 18-431, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on March 16, 2010, and April 20, 2010, respectively. Signed by the Mayor on May 11, 2010, it was assigned Act No. 18-400 and transmitted to both Houses of Congress for its review. D.C. Law 18-188 became effective on July 1, 2010.

**Editor’s notes.** — Section 3 of D.C. Law 18-188 provided:

“Sec. 3. Applicability.

“(a) The real property tax abatement of new

D.C. Official Code § 47-4631(b)(1) shall apply as of the date that the real property tax abatement under D.C. Official Code § 47-4612(b)(1) and (2) has reached the aggregate limitation imposed by D.C. Official Code § 47-4612(b)(3).

“(b) This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.”

The Budget Director of the Council of the District of Columbia has determined, as of February 15, 2012, that the fiscal effect of Law 18-188 has not been included in an approved budget and financial plan. Therefore, the provisions of this section, enacted by Law 18-188, are not in effect.

**§ 47-4632. Campbell Heights project; Lot 0207, Square 0204.**

(a) For the purposes of this section, the term “covenants” means a restrictive covenant or regulatory agreements, or both, associated with the real property’s receipt of federal low-income housing tax credits or other assistance pursuant to section 42 of the Internal Revenue Code of 1986, approved Oct. 22, 1986 (100 Stat. 2189; 26 U.S.C. § 42), or any other affordable housing program funded fully, or in part, by the District or its instrumentalities, including the District of Columbia Housing Finance Agency, restricting the real property’s use to multifamily rental housing for low-income housing.

(b) The real property, described as Lot 0207 (or any successor lot or lots), Square 0204, shall be exempt from taxation under Chapter 8 of this title, and District of Columbia permitting fees relating to construction or renovation of improvements on the real property, for a period commencing on the day after the transfer of real property to the Campbell Height Residents Association, or its assignee, and the recordation against the real property of the covenants and terminating when the last of the covenants terminates, but for no less than 15 years in accordance with the applicable low-income housing requirements.

(c) To claim the exemptions provided under subsection (b) of this section, including a refund of any real property taxes already paid, Campbell Height Residents Association, or its assignee, shall file a copy of the recorded deed of the real property to Campbell Height Residents Association, or its assignee, and the recorded covenants, with the Office of Tax and Revenue.

(May 27, 2010, D.C. Law 18-164, § 2(b), 57 DCR 3034.)



**Emergency legislation.** — For temporary (90 day) repeal of section 3 of D.C. Law 18-164, see § 7009 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

**Legislative history of Law 18-164.** — Law 18-164, the “Campbell Heights Residents Real Property Tax Exemption Act of 2010”, was introduced in Council and assigned Bill No. 18-490, which was referred to the Committee on Finance and Revenue. The bill was adopted on first and second readings on March 2, 2010,

and March 16, 2010, respectively. Signed by the Mayor on April 2, 2010, it was assigned Act No. 18-356 and transmitted to both Houses of Congress for its review. D.C. Law 18-164 became effective on May 27, 2010.

**Editor’s notes.** — Section 3 of D.C. Law 18-164 provided: “Sec. 3. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.”

Section 7009 of D.C. Law 18-223 repealed section 3 of D.C. Law 18-164.

## § 47-4633. Jubilee Housing residential rental project; Lot 863 in Square 2560, and Lot 873, Square 2563.

The real properties described as Lot 863 in Square 2560, and Lot 873, Square 2563, owned by Jubilee Housing Inc., or by an entity controlled, directly or indirectly, by Jubilee Housing Inc., including Jubilee Housing Limited Partnership II, shall be exempt from taxation under Chapter 8 of this title so long as the real properties continue to be owned by Jubilee Housing Inc., or by an entity controlled, directly or indirectly, by Jubilee Housing Inc., or continue to be under applicable use restrictions during a federal low-income housing tax credit compliance period, and are not used for commercial purposes, subject to the provisions of §§ 47-1005, 47-1007 and 47-1009.

(May 27, 2010, D.C. Law 18-163, § 2(b), 57 DCR 3032; July 13, 2012, D.C. Law 19-158, § 2(b), 59 DCR 5689.)

**Effect of amendments.** — D.C. Law 19-158, in the section heading, substituted “rental project; Lot 863 in Square 2560, and Lot 873, Square 2563.” for “rental project; Lots 107 and 108, Square 2560, and Lot 863, Square 2560.”; substituted “described as Lot 863 in Square 2560, and Lot 873, Square 2563, owned by Jubilee Housing Inc.” for “described as Lots 107 and 108, Square 2560, and Lot 863, Square 2560, owned by Jubilee Housing Inc.”; and substituted “provisions of §§ 47-1005, 47-1007 and 47-1009.” for “provisions of § 47-1005, 47-1007, and 47-1009.”

**Temporary Amendment of Section.** — Section 2(b) of D.C. Law 19-73, in the section heading, substituted “rental project; Lots 107 and 108, now known as Lot 863 in Square 2560, and Lot 873, Square 2563” for “rental project; Lots 107 and 108, Square 2560, and Lot 863, Square 2560”; substituted “described as Lots 107 and 108, now known as Lot 863 in Square 2560, and Lot 873, Square 2563, owned by Jubilee Housing Inc.” for “described as Lots 107 and 108, Square 2560, and Lot 863, Square 2560, owned by Jubilee Housing Inc.”; and substituted “provisions of §§ 47-1005, 47-1007, and 47-1009” for “provisions of § 47-1005, 47-1007, and 47-1009”.

Section 4(b) of D.C. Law 19-73 provided that

the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) repeal of section 3 of D.C. Law 18-163, see § 7008 of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

For temporary (90 day) amendment of section, see § 2(b) of Jubilee Housing Residential Rental Project Real Property Tax Exemption Clarification Emergency Act of 2011 (D.C. Act 19-205, October 17, 2011, 58 DCR 9326).

For temporary (90 day) amendment of section, see § 2(b) of Jubilee Housing Residential Rental Project Real Property Tax Exemption Clarification Congressional Review Emergency Act of 2012 (D.C. Act 19-295, January 20, 2012, 59 DCR 489).

**Legislative history of Law 18-163.** — Law 18-163, the “Jubilee Housing Residential Rental Project Real Property Tax Exemption Act of 2010”, was introduced in Council and assigned Bill No. 18-456, which was referred to the Committee on Finance and Revenue. The bill was adopted on first and second readings on March 2, 2010, and March 16, 2010, respectively. Signed by the Mayor on April 2, 2010, it was assigned Act No. 18-355 and transmitted to both Houses of Congress for its review. D.C. Law 18-163 became effective on May 27, 2010.

**Legislative history of Law 19-158.** — For history of Law 19-158, see notes under § 47-4628.

**Editor's notes.** — Section 3 of D.C. Law 18-163 provided: "Sec. 3. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan."

Section 7008 of D.C. Law 18-223 repealed section 3 of D.C. Law 18-163.

Section 3 of D.C. Law 19-158 provided: "Sec. 3. Applicability. Section 2(a) and (b) shall apply as of October 1, 2010."

## § 47-4634. Third & H Streets, N.E. development project—tax exemptions.

(a) For the purposes of this section, the term:

(1) "Developer Sponsor" means Steuart-H Street, LLC, Steuart Investment Company, and their successors, affiliates, and assigns.

(2) "Third & H Streets, N.E. project" means the acquisition, development, construction, installation, and equipping, including the financing, refinancing, or reimbursing of costs incurred, of the mixed-use retail, residential and garage project located on the Third & H Streets, N.E. property, consisting of:

(A) An approximately 210-unit residential condominium/apartment house;

(B) Approximately 42,000 square feet of retail space;

(C) A garage for approximately 250 to 270 cars; and

(D) Other ancillary improvements, including an associated supermarket with no less than 30,000 square feet.

(3) "Third & H Streets, N.E. property" means the real property, including any improvements thereon, located on Lot 54, Square 776 (or as the land for such lot may be subdivided into a record lot or lots or assessment and taxation lots, condominium lots, or air rights lots in the future).

(b) The Third & H Streets, N.E. project shall be exempt from the tax imposed by § 42-1102 and § 47-903.

(c) The sales and rental of tangible personal property to be incorporated in or consumed in the Third & H Streets, N.E. project, whether or not the sale, rental, or nature of the material or tangible personal property is incorporated as a permanent part of the Third & H Streets, N.E. project or the Third & H Streets, N.E. property, shall be exempt from the tax imposed by § 47-2002.

(d) The Third & H Streets, N.E. property shall be exempt from the portion of the tax imposed by Chapter 8 of this title in excess of the existing Fiscal Year 2010 real property tax ("real property tax increase") for 20 consecutive years. The tax exemption for the 1st 10 years shall equal 100% of the real property tax increase and shall be reduced in 10% increments in years 11 through 20 until the annual real property taxation equals 100%. The real property tax exemption shall commence upon the issuance of the 1st building permit for the Third and H Streets, N.E. property.

(e) The exemptions pursuant to subsections (b), (c), and (d) of this section shall be in addition to, and not in lieu of, any other tax relief or assistance from any other source applicable to the Third & H Streets, N.E. project, the Third & H Streets, N.E. property, or the Developer Sponsor. The exemptions under subsections (b), (c), and (d) shall not exceed, in the aggregate, \$5 million.

(f) This section shall not prevent or restrict the Developer Sponsor from utilizing any other tax, development, or other economic incentives available to



the Third & H Streets, N.E. project or the Third & H Streets, N.E. property, including an associated supermarket, which other tax, development, or other economic incentives shall include the supermarket tax incentives set forth in Chapter 38 of this title.

(May 27, 2010, D.C. Law 18-161, § 2(b), 57 DCR 3026.)

**Temporary Amendment of Section.** — Section 2 of D.C. Law 18-207 substituted “including the leasing, financing, refinancing, or reimbursing” for “including the financing, refinancing, or reimbursing” and substituted “§ 42-1103” for “§ 42-1102”.

Section 4(b) of D.C. Law 18-207 provided that the act shall expire after 225 days of its having taken effect.

Section 2 of D.C. Law 19-8, in subsec. (b), substituted “including the leasing, financing, refinancing, or reimbursing” for “including the financing, refinancing, or reimbursing”, and substituted “§ 42-1103” for “§ 42-1102”.

Section 4(b) of D.C. Law 19-8 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition of section, see § 2(b) of King Towers Residential Housing Real Property Tax Exemption Emergency Act of 2010 (D.C. Act 18-453, June 28, 2010, 57 DCR 5671).

For temporary (90 day) amendment of sec-

tion, see § 2 of Third & H Streets, N.E. Economic Development Technical Clarification Emergency Act of 2011 (D.C. Act 19-32, March 15, 2011, 58 DCR 2606).

**Legislative history of Law 18-161.** — Law 18-161, the “Third & H Streets, N.E. Economic Development Act of 2010”, was introduced in Council and assigned Bill No. 18-432, which was referred to the Committee on Finance and Revenue. The bill was adopted on first and second readings on March 2, 2010, and March 16, 2010, respectively. Signed by the Mayor on April 2, 2010, it was assigned Act No. 18-353 and transmitted to both Houses of Congress for its review. D.C. Law 18-161 became effective on May 27, 2010.

**Editor’s notes.** — Section 3 of D.C. Law 18-161 provided: “Sec. 3. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.”

Section 5 of D.C. Law 18-354 repealed section 3 of D.C. Law 18-161.

## § 47-4635. UNCF — 10-year real property tax abatement [Not funded].

[Not funded].

(Aug. 6, 2010, D.C. Law 18-211, § 2(b), 57 DCR 4949.)

**Legislative history of Law 18-211.** — Law 18-211, the “UNCF Tax Abatement and Relocation to the District Assistance Act of 2010”, was introduced in Council and assigned Bill No. 18-619, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on May 4, 2010, and May 18, 2010, respectively. Signed by the Mayor on June 7, 2010, it was assigned Act No. 18-430 and transmitted to both Houses of Congress for its review. D.C. Law 18-211 became effective on August 6, 2010.

**Editor’s notes.** — Section 5 of D.C. Law 18-211 provided: “Sec. 5. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.”

The Budget Director of the Council of the District of Columbia has determined, as of February 15, 2012, that the fiscal effect of Law 18-211 has not been included in an approved budget and financial plan. Therefore, the provisions of this section, enacted by Law 18-211, are not in effect.

## § 47-4636. First Congregational United Church of Christ property tax abatement.

(a) The real property described as Lots 833 through 835 and 7000 through 7011, Square 375, as the land for such lots may be subdivided into a record lot or lots or assessment and taxation lots in the future, known as the First Congregational United Church of Christ property and owned by the First

Congregational United Church of Christ, a District of Columbia nonprofit corporation formed for the purpose of religious worship, shall be exempt from taxation under Chapter 8 of this title so long as the First Congregational United Church of Christ owns the real property, subject to the provisions of §§ 47-1005, 47-1007, and 47-1009 as if the exemption were granted administratively.

(b) The transfer by First Congregational United Church of Christ of Square 375, Lots 834, 835, 837, 7003, 7006, 7007, 7008, 7009, 7010, 7011, 7014, and 7015 and any lots owned by First Congregational United Church of Christ and covered by subsection (a) of this section that are transferred solely to complete the transaction between First Congregational United Church of Christ and 733 10th & G LLC, as the land for such lots may be subdivided into a record lot or lots or assessment and taxation lots in the future, shall be exempt from the tax imposed by Chapter 9 of this title.

(c) The tax abatement pursuant to this section shall be in addition to, and not in lieu of, any other tax relief or development assistance from any other source applicable to the First Congregational United Church of Christ.

(Sept. 24, 2010, D.C. Law 18-223, § 7012(b), 57 DCR 6242; Sept. 14, 2011, D.C. Law 19-21, § 7042, 58 DCR 6226.)

**Effect of amendments.** — D.C. Law 19-21 rewrote subsec. (b), which had read as follows: “(b) The transfer by the First Congregational United Church of Christ of Lots 834, 835, 7003, 7006, 7007, 7008, 7009, 7010, and 7011, Square 375, as the land for such lots may be subdivided into a record lot or lots or assessment and taxation lots in the future, shall be exempt from the tax imposed by Chapter 9 of this title.”

**Emergency legislation.** — For temporary (90 day) addition, see § 7012(b) of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

**Legislative history of Law 18-223.** — For Law 18-223, see notes following § 47-355.05.

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 47-305.02.

**Short title.** — Short title: Section 7011 of D.C. Law 18-223 provided that subtitle B of title VII of the act may be cited as the “First Congregational United Church of Christ Property Tax Abatement Amendment Act of 2010”.

Short title: Section 7041 of D.C. Law 19-21 provided that subtitle E of title VII of the act may be cited as “First Congregational United Church of Christ Property Tax Abatement Technical Amendment Act of 2011”.

## § 47-4637. The Pew Charitable Trusts — 30-year limited real property tax abatement.

Forty percent of the annual real property taxes imposed by Chapter 8 of this title on the real property described as Lot 40, Square 377, that is owned by The Pew Charitable Trusts, shall be abated for 30 years; provided, that the real property continues to be owned by The Pew Charitable Trusts during the duration of the abatement period.

(Sept. 24, 2010, D.C. Law 18-223, § 7122(b), 57 DCR 6242.)

**Emergency legislation.** — For temporary (90 day) addition, see § 7122(b) of Fiscal Year 2011 Budget Support Emergency Act of 2010 (D.C. Act 18-463, July 2, 2010, 57 DCR 6542).

For temporary (90 day) addition of § 47-4646, see §§ 2 and 3 of Samuel J. Simmons

NCBA Estates No. 1 Limited Partnership Real Property Tax Exemption and Equitable Real Property Tax Relief Emergency Act of 2010 (D.C. Act 18-604, November 17, 2010, 57 DCR 11048).

For temporary (90 day) repeal of § 3 of D.C.



Act 18-612, see § 713 of Fiscal Year 2011 Supplemental Budget Support Emergency Act of 2010 (D.C. Act 18-694, January 19, 2011, 58 DCR 662).

**Legislative history of Law 18-223.** — For Law 18-223, see notes following § 47-355.05.

**Short title.** — Short title: Section 7121 of D.C. Law 18-223 provided that subtitle M of title VII of the act may be cited as the “Pew Charitable Trusts Limited Tax Abatement Act of 2010”.

## § 47-4638. 2323 Pennsylvania Avenue, S.E., redevelopment project.

The tax imposed by Chapter 8 of this title with respect to the real property previously described as Lots 19, 20, 54, 802, 803, 810, and 811, Square 5560, and currently described as Lot 0055, Square 5560, and any improvements thereto, shall be abated for 10 years, beginning October 1, 2011, to the extent that it exceeds the amount of the tax imposed on the real property for tax year 2009.

(Mar. 8, 2011, D.C. Law 18-291, § 2(b), 57 DCR 11508.)

**Legislative history of Law 18-291.** — Law 18-291, the “2323 Pennsylvania Avenue Southeast Redevelopment Project Real Property Limited Tax Abatement Assistance Act of 2010”, was introduced in Council and assigned Bill No. 18-628, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 5, 2010, and November 9, 2010, respectively. Signed by the Mayor on November 19,

2010, it was assigned Act No. 18-612 and transmitted to both Houses of Congress for its review. D.C. Law 18-291 became effective on March 8, 2011.

**Editor’s notes.** — Section 3 of D.C. Law 18-291 provided: “Sec. 3. Applicability. This act shall apply upon the inclusion of it fiscal effect in an approved budget and financial plan.”

Section 713 of D.C. Law 18-370 repealed section 3 of D.C. Law 18-291.

## § 47-4639. King Towers residential housing rental project; Lot 49, Square 281.

(a) As of August 13, 2010, the real property described as Lot 49, Square 281, owned by King Housing, LLC, or by an entity controlled, directly or indirectly, by King Housing, LLC, shall be exempt from taxation under Chapter 8 of this title so long as the real property continues to be owned by King Housing, LLC., or by an entity controlled, directly or indirectly, by King Housing, LLC, or continues to be under applicable use restrictions during a federal low-income housing tax credit compliance period or any other federal program governing income and use restrictions at the property, and is not used for commercial purposes, subject to the provisions of §§ 47-1005, 47-1007, and 47-1009.

(b) The conveyance of the real property to King Housing, LLC, to or an entity controlled directly or indirectly by King Housing, LLC, shall be exempt from the tax imposed by §§ 42-1103 and 47-903.

(c) The exemptions provided in this section shall be in addition to, and not in lieu of, any other tax relief or assistance from any other source applicable to either the real property or its owner.

(d) The Council orders that all economic interest transfer tax, penalties, interest, fees, and other related charges assessed against the real property as described in this section be forgiven, and that any payments already made be refunded.

(Oct. 15, 2010, D.C. Law 18-237, § 2(b), 57 DCR 7162; July 13, 2012, D.C. Law 19-153, § 2, 59 DCR 5138.)

**Effect of amendments.** — D.C. Law 19-153 rewrote the section, which formerly read:

“The real property described as Lot 49, Square 281, owned by King Housing, LLC., or by an entity controlled, directly or indirectly, by King Housing, LLC., shall be exempt from taxation under Chapter 8 of this title so long as the real property continues to be owned by King Housing, LLC., or by an entity controlled, directly or indirectly, by King Housing, LLC., or continues to be under applicable use restrictions during a federal low-income housing tax credit compliance period or any other federal program governing income and use restrictions at the property, and is not used for commercial purposes, subject to the provisions of §§ 47-1005, 47-1007, and 47-1009.”

**Legislative history of Law 18-237.** — Law 18-237, the “King Towers Residential Housing Real Property Tax Exemption Act of 2010”, was introduced in Council and assigned Bill No. 18-749, which was referred to the Committee on Finance and Revenue. The Bill was adopted

on first and second readings on June 15, 2010, and June 29, 2010, respectively. Signed by the Mayor on July 19, 2010, it was assigned Act No. 18-485 and transmitted to both Houses of Congress for its review. D.C. Law 18-237 became effective on October 15, 2010.

**Legislative history of Law 19-153.** — Law 19-153, the “King Towers Residential Housing Real Property Tax Exemption Clarification Act of 2012”, was introduced in Council and assigned Bill No. 19-530, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on April 17, 2012, and May 1, 2012, respectively. Signed by the Mayor on May 11, 2012, it was assigned Act No. 19-359 and transmitted to both Houses of Congress for its review. D.C. Law 19-153 became effective on July 13, 2012.

**Editor’s notes.** — Section 3 of D.C. Law 19-153 provided: “Sec. 3. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.”

## § 47-4640. Payments in lieu of taxes, Center Leg Freeway (Interstate 395) PILOT Area.

(a) For the purposes of this section, the term:

(1) “Center Leg Freeway (Interstate 395) PILOT Area” means the real property conveyed to the Owner under section 3 of the Redevelopment of the Center Leg Freeway (Interstate 395) Act of 2010, [D.C. Law 18-257, § 3, codified as D.C. Code § 10-840].

(2) “Deck” means the platform to be constructed by the Owner above the Center Leg Freeway (Interstate 395), upon which will be constructed improvements, including commercial and residential buildings.

(3) “Owner” means the Louis Dreyfus Property Group, LLC, or one of its affiliates or assigns approved by the Mayor, who may, from time to time, own all or a part of the Center Leg Freeway (Interstate 395) PILOT Area.

(4) “PILOT” means the semiannual payments made in lieu of real property taxes pursuant to this section.

(5) “PILOT Period” means the period commencing on the date that the District conveys to the Owner fee simple title to the Center Leg Freeway (Interstate 395) PILOT Area (but not earlier than October 1, 2011), and ending on the 1st anniversary of the 10th value adjustment required under subsection (b)(2)(E) of this section.

(b)(1)(A) Notwithstanding part E of subchapter IV of Chapter 3 of Title 1, during the PILOT Period, the owner of each tax lot within the Center Leg Freeway (Interstate 395) PILOT Area shall pay a PILOT with respect to such lot, and any improvements thereon, in an amount equivalent to the real property taxes that would be otherwise levied on Class 1 Properties or Class 2 Properties (as applicable based on the use of the real property) pursuant to



§ 47-812, based upon the value of the real property in the Center Leg Freeway (Interstate 395) PILOT Area as determined pursuant to subsection (b)(2) of this section. Except as otherwise provided in this section, the PILOT shall be paid at the same time and in the same manner as real property taxes under Chapter 8 of this title.

(B) If any tax lot included in the Center Leg Freeway (Interstate 395) PILOT Area is exempt from real property taxes pursuant to any provision of this title, other than subsection (h) of this section, the tax lot shall be exempt from payment of the PILOT.

(C) Notwithstanding any other provision of this paragraph, commencing on October 1, 2014, the PILOT shall not be due until 30 days after the date on which a building permit is issued for the 1st building to be constructed upon the deck, other than buildings for the use of the Archdiocese of Washington or the Jewish Historical Society of Greater Washington, Inc.

(D) Upon issuance of a Certificate of Completion of Core and Shell of Building with respect to any building that is built upon the deck, the tax lot upon which any such building is situated shall no longer be included in the Center Leg Freeway (Interstate 395) PILOT Area. The tax on any such lot shall be paid in accordance with Chapter 8 of this title commencing on the beginning of the next half tax year.

(2)(A) For the purposes of calculating the PILOT pursuant to paragraph (1) of this subsection (but not for the purpose of calculating the assessed value), the value of the real property within the Center Leg Freeway (Interstate 395) PILOT Area (excluding the value of improvements constructed upon the deck) shall be computed as provided in this paragraph.

(B) For Fiscal Years 2011 through 2014, the value of the real property shall be the lesser of:

(i) The assessed value of the real property as determined under Chapter 8 of this title; or

(ii) The assessed value of the real property for the applicable fiscal year projected in the fiscal impact statement adopted by the Council in the Redevelopment of the Center Leg Freeway (Interstate 395) Act of 2010, [D.C. Law 18-257].

(C) Commencing on October 1, 2014, the value of the real property shall be the purchase price paid by Owner to the District at closing on the transfer of the Center Leg Freeway (Interstate 395) PILOT Area pursuant to section 3 of the Redevelopment of the Center Leg Freeway (Interstate 395) Act of 2010, [D.C. Law 18-257, § 3, codified as D.C. Code § 10-840].

(D)(i) Commencing on October 1, 2015, and on each October 1st thereafter, the value of the real property shall be the adjusted purchase price, as determined under sub-subparagraph (ii) of this subparagraph, as of the immediately preceding January 1st.

(ii) As of January 1, 2014, and as of each January 1st during the PILOT Period thereafter until the January 1st immediately following substantial completion of the entire deck, the Mayor shall certify to the Council and the Office of Tax and Revenue the adjusted purchase price for such real property as determined in accordance with the procedures contained in the

documents governing the transfer of the Center Leg Freeway (Interstate 395) PILOT Area to the Owner pursuant to section 3 of the Redevelopment of the Center Leg Freeway (Interstate 395) Act of 2010, [D.C. Law 18-257, § 3, codified as D.C. Code § 10-840]. The last such certification shall further certify that substantial completion of the entire deck has occurred and that the adjusted purchase price set forth therein is final for purposes of this paragraph.

(E) On each anniversary after the final adjustment of the purchase price as provided in subparagraph (E) of this paragraph, the value of such real property shall increase by the average percentage increase in the assessed value of land in the District in the immediately preceding fiscal year.

(F) For the purposes of calculating the PILOT for each tax lot, the value of the real property determined under this paragraph shall be allocated among all the tax lots in the Center Leg Freeway (Interstate 395) PILOT Area for each fiscal year according to the relative assessed value of each such lot as of the January 1st immediately preceding the fiscal year with respect to which payment of the PILOT accrues (including, for purposes of this determination, any tax lot that is no longer included in the Center Leg Freeway (Interstate 395) PILOT Area pursuant to paragraph (1)(iv) of this subsection).

(c) The PILOT shall be subject to the same penalty and interest provisions as unpaid real property taxes under Chapter 8 of Title 47.

(d) Beginning on October 1, 2014, the PILOT deferred under subsection (b)(1)(C) of this section shall be reduced by an amount not to exceed \$2.4 million in consideration for the Owner agreeing to provide no less than 50 affordable housing units and an amount not to exceed \$3 million for Owner's conducting certain site preparation activities, including demolition of existing structures on the Center Leg Freeway ((Interstate 395) PILOT Area and within F Street, N.W.

(e) A lien for unpaid PILOT payments, including penalties and interest, shall attach to each tax lot in the Center Leg Freeway (Interstate 395) PILOT Area in the same manner and with the same priority as a lien for delinquent real property tax under Chapter 13A of this title. Unpaid PILOT payments may be collected in accordance with Chapter 13A of this title.

(f) The owner of a tax lot within the Center Leg Freeway (Interstate 395) PILOT Area shall not have the right to challenge the Mayor's determination of the purchase price or adjusted purchase price under subsection (b)(2) of this section. The owner of a tax lot within the Center Leg Freeway (Interstate 395) PILOT Area shall have the right to challenge the assessed value of its tax lot in accordance with the provisions of Chapter 8 of this title.

(g) This section shall not affect the calculation of the assessed value or payment of real property taxes with respect to any buildings or improvements constructed upon the deck upon the receipt of Certificate of Completion of Core and Shell of Building for such building or improvement.

(h) Land and improvements that are located in the Center Leg Freeway (Interstate 395) PILOT Area, and not otherwise exempt pursuant to § 47-1002, shall be exempt from the tax imposed by Chapter 8 of this title for the PILOT period; provided, that this exemption shall not apply to any improve-



ments constructed upon the deck and the land and improvements on any lots that are removed from the Center Leg Freeway (Interstate 395) PILOT Area pursuant to subsection (b)(1)(D) of this section.

(Oct. 26, 2010, D.C. Law 18-257, § 2(b), 57 DCR 8144.)

**Emergency legislation.** — For temporary (90 day) repeal of § 3 of D.C. Act 18-614, see § 712 of Fiscal Year 2011 Supplemental Budget Support Emergency Act of 2010 (D.C. Act 18-694, January 19, 2011, 58 DCR 662).

**Legislative history of Law 18-257.** — Law 18-257, the “Redevelopment of the Center Leg Freeway (Interstate 395) Act of 2010”, was introduced in Council and assigned Bill No.

18-806 which was referred to the Committee on Economic Development, Finance and Revenue. The Bill was adopted on first and second readings on June 29, 2010, and July 13, 2010, respectively. Signed by the Mayor on August 6, 2010, it was assigned Act No. 18-533 and transmitted to both Houses of Congress for its review. D.C. Law 18-257 became effective on October 26, 2010.

## § 47-4641. Allen Chapel A.M.E. Senior Residential Rental Project; Lots 0024, 0025, 0026, 0038, 0214, 0215, 0923, 0924, and 0925, Square 5730.

The real property described as Lots 0024, 0025, 0026, 0038, 0214, 0215, 0923, 0924, and 0925, Square 5730, owned by Allen Chapel African Methodist Episcopal Church, Inc., or by an entity controlled, directly or indirectly, by Allen Chapel African Methodist Episcopal Church, Inc., shall be exempt from the tax imposed by Chapter 8 of this title as long as the real property is owned by Allen Chapel African Methodist Episcopal Church, Inc., or by an entity controlled, directly or indirectly, by Allen Chapel African Methodist Episcopal Church, Inc., and not used for commercial purposes, subject to the provisions of §§ 47-1005, 47-1007, and 47-1009.

(Mar. 8, 2011, D.C. Law 18-288, § 2(b), 57 DCR 11497.)

**Temporary Amendment of Section.** — Section 2 of D.C. Law 19-12 rewrote the section to read as follows:

“§ 47-4641. Allen Chapel A.M.E. Senior Residential Rental Project; Lots 0024, 0025, 0026, 0038, 0214, 0215, 0218, 0923, 0924, and 0925, Square 5730.

“(a) For purposes of this section, the term:

“(1) “Affordable rental housing project” means a housing development in which units are primarily rented to households with incomes that are not more than 60% of area median income (adjusted for household size), as such amount of area median income is determined by the United States Department of Housing and Urban Development, including any tenant services or other improvements and facilities related thereto or that is otherwise in compliance under applicable use restrictions during a federal low-income housing tax credit compliance period or in connection with any other federal program governing income and use restrictions at the property.

“(2) “Alabama Avenue Affordable Rental Housing Project” means the acquisition, con-

struction, rehabilitation, equipping, including the financing, refinancing, or reimbursing of costs incurred therefore, of an affordable rental housing project, including any tenant services and any other improvements and facilities related thereto, located on the real property at Lot 0218, Square 5730.

“(3) “Alabama Avenue Apartments Property” means the real property, including any improvements thereon, located at Lot 0218, Square 5730 which were consolidated from portions of Lots 0038, 0923, and 0924, Square 5730.

“(4) “Alabama Ave. Affordable Housing, L.P.” means the entity established by Allen Chapel African Methodist Episcopal Church, Inc., for the purposes of developing the Alabama Avenue Affordable Rental Housing Project. The entity is comprised of Vision of Victory CDC, a subsidiary of Allen Chapel African Methodist Episcopal Church, Inc., which holds a 51% interest in the entity, and NHP Foundation, a nonprofit affordable housing developer/owner, which owns a 49% interest in the entity.

“(b) The real property described as lots 0024,

0025, 0026, 0038, 0214, 0215, 0923, 0924, and 0925, Square 5730, owned by Allen Chapel African Methodist Episcopal Church, Inc., or by an entity controlled, directly or indirectly, by Allen Chapel African Methodist Episcopal Church, Inc., shall be exempt from the tax imposed by Chapter 8 of this title so long as the real property is owned by Allen Chapel African Methodist Episcopal Church, Inc., or by an entity controlled, directly or indirectly, by Allen Chapel African Methodist Episcopal Church, Inc., and not used for commercial purposes, subject to the provisions of §§ 47-1005, 47-1007, and 47-1009.

“(c) The Alabama Avenue Apartments Property, which will be transferred from Allen Chapel African Methodist Episcopal Church, Inc., to Alabama Ave. Affordable Housing, L.P., shall be exempt from the tax imposed by Chapter 8 of this title so long as the real property is used as an affordable rental housing project and is not used for commercial purposes, subject to the provisions of §§ 47-1005, 47-1007, and 47-1009.

“(d) The exemptions and abatements provided in subsection (c) of this section shall run with Lot 0218, Square 5730 and shall apply to any subsequent owner or assignee or successor in interest of Alabama Avenue Affordable Rental Housing Project, provided the Alabama Avenue Apartments Property is used as an affordable rental housing project and is not used for commercial purposes.”.

Section 4(b) of D.C. Law 19-12 provided that the act shall expire after 225 days of its having taken effect.

**Temporary Addition of Section.** — Section 2(b) of D.C. Law 18-32 added § 47-1081 to read as follows: “§ 47-1081. Allen Chapel A.M.E. Senior Residential Rental Project, Lots 0024, 0025, 0026, 0038, 0214, 0215, 0923, 0924, and 0295 in Square 5730. “The real properties described as Lots 0024, 0025, 0026, 0038, 0214, 0215, 0923, 0294, and 0925 in Square 5730, owned by Allen Chapel African Methodist Episcopal Church, Inc., or by an entity controlled, directly or indirectly, by Allen Chapel African Methodist Episcopal Church, Inc., shall be ex-

empt from real property taxation so long as the real properties continue to be owned by Allen Chapel African Methodist Episcopal Church, Inc., or by an entity controlled, directly or indirectly, by Allen Chapel African Methodist Episcopal Church, Inc., and not used for commercial purposes, subject to the provisions of §§ 47-1005, 47-1007, and 47-1009.”

Section 7(b) of D.C. Law 18-32 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) addition, see § 2(b) of Allen Chapel A.M.E. Senior Residential Rental Project Property Tax Exemption and Equitable Real Property Tax Relief Property Tax Exemption Emergency Act of 2009 (D.C. Act 18-72, May 11, 2009, 56 DCR 3801).

For temporary (90 day) amendment of section, see § 2(b) of Allen Chapel A.M.E. Senior Residential Rental Project Property Tax Exemption Clarification Emergency Act of 2011 (D.C. Act 19-44, March 26, 2011, 58 DCR 2925).

**Legislative history of Law 18-288.** — Law 18-288, the “Allen Chapel A.M.E. Senior Residential Rental Project Property Tax Exemption and Equitable Real Property Tax Relief Act of 2010”, was introduced in Council and assigned Bill No. 18-198, which was referred to the Committee Finance and Revenue. The Bill was adopted on first and second readings on October 5, 2010, and November 9, 2010, respectively. Signed by the Mayor on November 19, 2010, it was assigned Act No. 18-609 and transmitted to both Houses of Congress for its review. D.C. Law 18-288 became effective on March 8, 2011.

**Short title.** — Short title: Section 7111 of D.C. Law 19-21 provided that subtitle L of title VII of the act may be cited as “Allen Chapel A.M.E. Senior Residential Rental Project Tax Relief Amendment Act of 2011”.

**Editor’s notes.** — Section 7112 of D.C. Law 19-21 repealed section 7032 of D.C. Law 18-223.

Section 4 of D.C. Law 18-288 provided: “Sec. 4. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.”

## § 47-4642. St. Paul Senior Living at Wayne Place; Lot 0045, Square 6118.

(a) The real property described as Lot 0045, Square 6118, and currently owned by Wayne Place Senior Living Limited Partnership, a District of Columbia limited partnership, shall be exempt from the tax imposed by Chapter 8 of this title so long as the real property is:

(1) Owned and maintained by Wayne Place Senior Living Limited Partnership, or by an entity controlled, directly or indirectly, by Wayne Place Senior Living Limited Partnership;



(2) Operated as a senior living facility that provides secure and affordable housing to elderly residents of the District; and

(3) Not used for commercial purposes.

(b) Section 47-1005 shall apply with respect to the real property exempt from taxation under subsection (a) of this section.

(c) The limited partnership owner of the real property shall file the reports required by § 47-1007 and shall have appeal rights provided by § 47-1009.

(Mar. 8, 2011, D.C. Law 18-290, § 2(b), 57 DCR 11506.)

**Legislative history of Law 18-290.** — Law 18-290, the “Wayne Place Senior Living Limited Partnership Real Property Tax Exemption Act of 2010”, was introduced in Council and assigned Bill No. 18-505, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 5, 2010, and November 9, 2010, respectively. Signed by the Mayor on November 19, 2010, it was assigned Act No. 18-611 and transmitted to both Houses of Congress for its review. D.C. Law 18-290 became effective on March 8, 2011.

**Short title.** — Short title: Section 7121 of

D.C. Law 19-21 provided that subtitle M of title VII of the act may be cited as “Wayne Place Senior Living Limited Partnership Tax Relief Amendment Act of 2011”.

**Editor’s notes.** — Section 7122 of D.C. Law 19-21 repealed section 4 of D.C. Law 18-290.

Sections 3 and 4 of D.C. Law 18-290 provided:

“Sec. 3. Sunset. This act shall expire on October 31, 2021.

“Sec. 4. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.”

## § 47-4643. 800 Kenilworth Avenue Northeast redevelopment project.

The real property described as Lot 8, Square 5058, and any improvements thereon, shall be exempt from the tax imposed by Chapter 8 of this title for 10 years.

(Mar. 8, 2011, D.C. Law 18-293, § 2(b), 57 DCR 11512.)

**Legislative history of Law 18-293.** — Law 18-293, the “800 Kenilworth Avenue Northeast Redevelopment Project Real Property Limited Tax Abatement Assistance Act of 2010”, was introduced in Council and assigned Bill No. 18-828, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 5, 2010, and November 9, 2010, respectively. Signed by the Mayor on November 23, 2010, it was assigned Act No. 18-614 and transmitted to both Houses of Congress for its review. D.C. Law 18-293 became effective on March 8, 2011.

**Short title.** — Short title: Section 711 of D.C. Law 18-370 provided that subtitle B of title VII of the act may be cited as “Budget Financing Contingencies Act of 2010”.

**Editor’s notes.** — Section 712 of D.C. Law 18-370 repealed section 3 of D.C. Law 18-293.

Section 3 of D.C. Law 18-293 provided: “Sec. 3. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.”

## § 47-4644. Thirteenth Church of Christ real property tax relief. [Not funded].

[Not funded].

(Mar. 8, 2011, D.C. Law 18-292, § 2(b), 57 DCR 11510.)

**Legislative history of Law 18-292.** — Law 18-292, the “Thirteenth Church of Christ Real

Property Tax Relief and Exemption Act of 2010”, was introduced in Council and assigned

Bill No. 18-776, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 5, 2010, and November 9, 2010, respectively. Signed by the Mayor on November 19, 2010, it was assigned Act No. 18-613 and transmitted to both Houses of Congress for its review. D.C. Law 18-292 became effective on March 8, 2011.

**Editor's notes.** — Section 4 of D.C. Law

18-292 provided: "Sec. 4. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan."

The Budget Director of the Council of the District of Columbia has determined, as of February 15, 2012, that the fiscal effect of Law 18-292 has not been included in an approved budget and financial plan. Therefore, the provisions of this section, enacted by Law 18-292, are not in effect.

§ 47-4645. [Reserved].

§ 47-4646. NCBA Housing Development Corporation of the District of Columbia and Samuel J. Simmons NCBA Estates No. 1 Limited Partnership; Lot 78, Square 2855. [Not funded].

[Not funded].

(Mar. 12, 2011, D.C. Law 18-311, § 2(b), 57 DCR 12396.)

**Emergency legislation.** — For temporary (90 day) repeal of section 4 of D.C. Law 18-311, see § 7003 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) repeal of section 4 of D.C. Law 18-311, see § 7003 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

**Legislative history of Law 18-311.** — Law 18-311, the "Samuel J. Simmons NCBA Estates No. 1 Limited Partnership Real Property Tax Exemption and Equitable Real Property Tax Relief Act of 2010", was introduced in Council and assigned Bill No. 18-558, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on November 9, 2010, and November

23, 2010, respectively. Signed by the Mayor on December 9, 2010, it was assigned Act No. 18-632 and transmitted to both Houses of Congress for its review. D.C. Law 18-311 became effective on March 12, 2011.

**Editor's notes.** — Sections 3 and 4 of D.C. Law 18-311 provided:

"Sec. 3. Sunset. This act shall expire 360 months after its effective date.

"Sec. 4. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan."

The Budget Director of the Council of the District of Columbia has determined, as of February 15, 2012, that the fiscal effect of Law 18-311 has not been included in an approved budget and financial plan. Therefore, the provisions of this section, enacted by Law 18-311, are not in effect.

§ 47-4647. 1029 Perry Street, N.E.; Lots 20 and 842, Square 3883. [Not funded].

[Not funded].

(Mar. 31, 2011, D.C. Law 18-342, § 2(b), 58 DCR 626.)

**Legislative history of Law 18-342.** — Law 18-342, the "Perry Street Affordable Housing Tax Exemption and Relief Act of 2010", was introduced in Council and assigned Bill No. 18-1004, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on January 12, 2011, it

was assigned Act No. 18-687 and transmitted to both Houses of Congress for its review. D.C. Law 18-342 became effective on March 31, 2011.

**Editor's notes.** — Section 4 of D.C. Law 18-342 provided: "Sec. 4. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan."

The Budget Director of the Council of the



District of Columbia has determined, as of February 15, 2012, that the fiscal effect of Law 18-342 has not been included in an approved

budget and financial plan. Therefore, the provisions of this section, enacted by Law 18-342, are not in effect.

## § 47-4648. Abatement of real property taxes for 2 M Street, N.E.

(a) Beginning October 1, 2014, the tax imposed by Chapter 8 of this title on the real property described as Lot 258, Square 672, and any improvements thereon, shall be abated for 10 years; provided, that:

(1) The aggregate amount of the abatement shall not exceed \$5.76 million; and

(2) The Federal Housing Administration shall have approved an application for mortgage insurance under section 221(d)(4) of the National Housing Act, approved August 2, 1954 (68 Stat. 599; 12 U.S.C. § 1715 (d)(4)), for the financing of the acquisition or construction of land improvements for the 2 M Street, N.E., project.

(b) The owner of the real property shall certify to the Office of Tax and Revenue that the project's application for mortgage insurance has been approved and shall inform the Office of Tax and Revenue if approval has been withheld.

(Apr. 8, 2011, D.C. Law 18-355, § 2(b), 58 DCR 758.)

**Legislative history of Law 18-355.** — Law 18-355, the “2 M Street, N.E., Real Property Tax Abatement Act of 2010”, was introduced in Council and assigned Bill No. 18-1041, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and

second readings on December 7, 2010, and December 21, 2010, respectively. Signed by the Mayor on January 19, 2011, it was assigned Act No. 18-705 and transmitted to both Houses of Congress for its review. D.C. Law 18-355 became effective on April 8, 2011.

## § 47-4649. Abatement of real property taxes for 4427 Hayes Street, N.E.

The real property described as Lot 120, Square 5129, and any improvements thereon, shall be exempt from the tax imposed by Chapter 8 of this title during tax years 2011, 2012, 2013, 2014, and 2015; provided, that the total tax exemption provided by this section shall not exceed \$140,000.

(Apr. 8, 2011, D.C. Law 18-370, § 722(b), 58 DCR 1008.)

**Emergency legislation.** — For temporary (90 day) addition of § 47-4649, see § 722(b) of Fiscal Year 2011 Supplemental Budget Support Emergency Act of 2010 (D.C. Act 18-694, January 19, 2011, 58 DCR 662).

**Legislative history of Law 18-370.** — For history of Law 18-370, see notes under § 47-143.

**Short title.** — Short title: Section 721 of D.C. Law 18-370 provided that subtitle C of title VII of the act may be cited as “4427 Hayes Street, N.E., Real Property Tax Abatement Act of 2010”.

**§ 47-4650. International House of Pancakes Restaurant #3221 Tax Exemption Clarification.**

The real property described as Lot 819, in Square 5912, known as the International House of Pancakes Restaurant #3221, owned by CHR, LLC, and leased to Fathers and Sons, LLC, shall be exempt from the tax imposed by Chapter 8 of this title for the period beginning October 1, 2007, and ending September 7, 2009. The tax exemption pursuant to this section shall be in addition to, and not in lieu of, any other tax relief or assistance from any other source applicable to the International House of Pancakes Restaurant located at the real property described as Lot 819, Square 5912.

(Apr. 8, 2011, D.C. Law 18-370, § 732(b), 58 DCR 1008.)

**Emergency legislation.** — For temporary (90 day) addition of § 47-4650, see § 732(b) of Fiscal Year 2011 Supplemental Budget Support Emergency Act of 2010 (D.C. Act 18-694, January 19, 2011, 58 DCR 662).

**Legislative history of Law 18-370.** — For history of Law 18-370, see notes under § 47-143.

**Short title.** — Short title: Section 731 of D.C. Law 18-370 provided that subtitle D of title VII of the act may be cited as “IHOP Restaurant #3221 Tax Exemption Clarification Act of 2010”.

**§ 47-4651. Central Union Mission; Lots 825, 826, 830, and 831, Square 2895.**

(a)(1) The real property, described as Lots 825, 826, 830, and 831, Square 2895 (“Property”) which is owned by Central Union Mission, Inc., a District of Columbia nonprofit corporation, shall be exempt from the tax imposed by Chapter 8 of this title so long as the Property continues to be so owned by Central Union Mission, Inc., and the Property is not used for commercial purposes, subject to the provisions of §§ 47-1005, 47-1007, and 47-1009 as if the exemption were granted administratively.

(2) Paragraph (1) shall apply to Lots 825 and 826, Square 2895, as of November 1, 2006 and to Lots 830 and 831, Square 2895, as of August 1, 2007.

(b) The transfer of the Property, or any portion thereof, by the Central Union Mission, Inc., shall be exempt from the tax imposed by § 47-903.

(Apr. 8, 2011, D.C. Law 18-370, § 796(b), 58 DCR 1008.)

**Emergency legislation.** — For temporary (90 day) addition of § 47-4651, see § 796(b) of Fiscal Year 2011 Supplemental Budget Support Emergency Act of 2010 (D.C. Act 18-694, January 19, 2011, 58 DCR 662).

**Legislative history of Law 18-370.** — For history of Law 18-370, see notes under § 47-143.

**Short title.** — Short title: Section 795 of D.C. Law 18-370 provided that subtitle K of title VII of the act may be cited as “Central Union Mission Real Property Tax Exemption and Equitable Tax Relief Act of 2010”.

**§ 47-4652. Abatement of real property taxes for Adams Morgan Hotel.**

(a) The tax imposed by Chapter 8 of this title on the real property described



as Lot 872, Lot 875, and Lot 127, Square 2560, and any improvements thereon, shall be abated for 20 years in accordance with subsection (b) of this section.

(b) The abatement contained in subsection (a) of this section shall:

(1) Commence with the tax year immediately following the tax year in which the final certificate of occupancy authorizing use of the project as a hotel is issued, but in no case before October 1, 2014; and

(2) Not exceed \$46 million in the aggregate over 20 years.

(c) To receive the abatement contained in subsection (a) of this section, the development of the real property as a hotel shall comply with the following:

(1) The development shall comply with § 2-219.03 and § 2-218.46;

(2) At least 51% of construction hours shall be filled by District residents and a minimum of 765 construction full-time equivalent employees.

(3) At least 51% of permanent jobs in the hotel shall be filled by District residents with a minimum of 51% of the District resident jobs reserved for Ward One residents;

(4) All apprenticeships shall be reserved for District residents with preference given to Ward One residents;

(5) A job training program, funded by the developer, shall be established through a District nongovernmental organization, trade union, or nonprofit organization whose core mission is to train and employ District residents;

(6) The developer shall work with an outside auditor or trade union to ensure that local hiring minimums are being met and maintained; and

(7) The development shall include no less than 4000 square feet of community and nonprofit incubator space at no cost to the community.

(Apr. 8, 2011, D.C. Law 18-370, § 798(b), 58 DCR 1008.)

**Emergency legislation.** — For temporary (90 day) addition of § 47-4652, see § 798(b) of Fiscal Year 2011 Supplemental Budget Support Emergency Act of 2010 (D.C. Act 18-694, January 19, 2011, 58 DCR 662).

**Legislative history of Law 18-370.** — For history of Law 18-370, see notes under § 47-143.

**Short title.** — Short title: Section 797 of D.C. Law 18-370 provided that subtitle L of title VII of the act may be cited as “Adams Morgan Hotel Real Property Tax Abatement Act of 2010”.

## § 47-4653. Universal Holiness Church property tax relief.

(a)(1) The real property located at Lot 0874, Square 5877, shall be exempt from all taxation as long as this property is owned by the Universal Holiness Church and is used for religious worship and religious education and training purposes.

(2) The tax relief granted pursuant to this subsection shall be in addition to, and not in lieu of, any other tax relief or development assistance from any other source applicable to the Universal Holiness Church.

(b) All unpaid real property taxes, interest, penalties, fees, and other related charges assessed against real property located at Lot 0874, Square 5877, since June 1, 2009, through the first day of the month following [September 14, 2011], are forgiven, and any payment already made for this period shall be refunded.

(Sept. 14, 2011, D.C. Law 19-21, § 7132(b), 58 DCR 6226.)

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 47-305.02.

D.C. Law 19-21 provided that subtitle N of title VII of the act may be cited as “Universal Holiness Church Real Property Tax Relief and Exemption Act of 2011”.

**Short title.** — Short title: Section 7131 of

## § 47-4654. Beulah Baptist Church, Dix Street Corridor Senior Housing LP, et al. equitable tax relief.

(a) Beulah Baptist Church of Deanwood Heights is the owner of real property known as Lots 23, 811, 813, and 814 in Square 5253 and Lots 5, 7, 9, and 39 in Square 5263. These properties shall be exempt from the list compiled pursuant to § 42-3131.16(b).

(b) Beulah Community Improvement Association is the owner of real property known as Lot 822 in Square 5262 and Lot 33 in Square 5264. These properties shall be exempt from the list compiled pursuant to § 42-3131.16(b).

(c) Dix Street Corridor Senior Housing LP is the owner of real property known as Lots 30, 45 and 54 in Square 5266. These properties shall be exempt from the list compiled pursuant to § 42-3131.16(b).

(d) The real property known as Lot 44 in Square 5228 and Lots 3 and 4 in Square 5229 and Lots 23, 811, 813, and 814 in Square 5253 and Lots 14 and 822 in Square 5262 and Lots 5, 6, 7, 9, 10, 39, and Lot 40 in Square 5263 and Lots 31, 33, 34 and 807 in Square 5264 and Lots 28, 29, 30, 45, and 54 in Square 5266 shall be exempt from real property taxes imposed by Chapter 8 of this title effective October 1, 2006, through September 30, 2010.

(Sept. 14, 2011, D.C. Law 19-21, § 7072(b), 58 DCR 6226.)

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 47-305.02.

D.C. Law 19-21 provided that subtitle H of title VII of the act may be cited as “Beulah Baptist Church Tax Relief Act of 2011”.

**Short title.** — Short title: Section 7061 of

## § 47-4655. The Washington Ballet, Lot 19, Square 1911.

(a) The real property described as Lot 19, Square 1911, together with any improvements on the real property and any future improvements constructed on the real property, shall be exempt from all taxation, including ordinary and special taxes and use or possessory interest taxes, interest, penalties, fees, and other related charges, beginning November 1, 2008, and continuing for as long as the real property is owned by The Washington Ballet and used for the purposes and activities of The Washington Ballet, including the instruction, presentation, and celebration of dance, exercise, and related activities, and the provision of room and board for its students and instructors, and not used for commercial purposes, subject to the provisions of §§ 47-1005, 47-1007, and 47-1009.

(b) The one-time transfer of the real property described in subsection (a) of this section to The Washington Ballet shall not be subject to the recordation taxes and fees under Chapter 11 of Title 42 [§ 42-1101 et seq.].

(c) The amount necessary to redeem the real property described in subsec-



tion (a) of this section under § 47-1361 shall be deposited with the Chief Financial Officer on behalf of the owner, and the Chief Financial Officer shall cancel the December 2, 2009 tax sale of the real property described in subsection (a) of this section.

(Jan. 12, 2012, D.C. Law 19-77, § 2(b), 58 DCR 10100.)

**Emergency legislation.** — For temporary (90 day) repeal of section 3 of D.C. Law 19-77, see § 7006 of Fiscal Year 2013 Budget Support Emergency Act of 2012 (D.C. Act 19-383, June 19, 2012, 59 DCR 7764).

For temporary (90 day) repeal of section 3 of D.C. Law 19-77, see § 7006 of Fiscal Year 2013 Budget Support Congressional Review Emergency Act of 2012 (D.C. Act 19-413, July 25, 2012, 59 DCR 9290).

**Legislative history of Law 19-77.** — Law 19-77, the “The Washington Ballet Equitable Real Property Tax Relief Act of 2011”, was

introduced in Council and assigned Bill No. 19-21, which was referred to the Committee on Finance and Revenue. The Bill was adopted on first and second readings on October 4, 2011, and November 1, 2011, respectively. Signed by the Mayor on November 21, 2011, it was assigned Act No. 19-237 and transmitted to both Houses of Congress for its review. D.C. Law 19-77 became effective on January 12, 2012.

**Editor’s notes.** — Section 3 of D.C. Law 19-77 provided: “Sec. 3. Applicability. This act shall apply upon the inclusion of its fiscal effect in an approved budget and financial plan.”

CHAPTER 47. EXEMPTIONS AND ABATEMENTS APPROVAL REQUIREMENTS.

Sec.	Sec.
47-4701. Exemptions and abatements approval requirements.	eligibility for exemptions and abatements from real property tax.
47-4702. Annual certification of continuing el-	47-4703. Chief Financial Officer guidance.

§ 47-4701. Exemptions and abatements approval requirements.

(a) Any act introduced in the Council that grants an exemption or abatement of a tax imposed by this title or by § 42-1103 shall satisfy the requirements set forth in this chapter.

(b) An act described in subsection (a) of this section shall be accompanied by an analysis that includes:

- (1) The terms of the exemption or abatement;
- (2) The annual proposed value of the exemption or abatement;
- (3)(A) A summary of the proposed community benefits to be provided by the recipient of the exemption or abatement, which shall include:
  - (i) The number of affordable housing units to be developed;
  - (ii) For what level of Area Median Income, as defined by § 47-858.01(1)(A)(i), the units will be affordable;
  - (iii) The assessed financial value of the subsidy, which shall be measured as the difference between the market rate of a comparable unit within the same neighborhood and the rate that is being charged as affordable housing;
  - (iv) The number of jobs that will be created, delineated by status as to whether a job is:
    - (I) Permanent;
    - (II) Temporary;
    - (III) Full-time; or
    - (IV) Part-time;
  - (v) The estimated wages and benefits for each job created; and
  - (vi) Any District resident-hiring commitments made.

(B) The summary shall specifically state which community benefits are already required by law, such as inclusionary zoning, and the community amenities that have already been negotiated as part of a planned-unit-development approval.

(4) A financial analysis prepared by the Office of the Chief Financial Officer, which shall consist of the following:

- (A) For existing buildings, a review and analysis of the financial condition of the recipient of the proposed exemption or abatement and an advisory opinion stating whether or not it is likely that the recipient could be reasonably expected to meet its fiscal needs without the proposed exemption or abatement.
- (B)(i) For development projects, a review and analysis of the financing proposal submitted by the recipient of the proposed exemption or abatement and an advisory opinion stating whether or not it is likely that the project could be financed without the proposed exemption or abatement.



(ii) If, in the opinion of the Chief Financial Officer, it is unlikely that the project could be financed without the proposed exemption or abatement, the Chief Financial Officer shall provide an estimate of the amount of exemption or abatement necessary to enable the project to be financed.

(iii) If, in the opinion of the Chief Financial Officer, it is unlikely that the project could be financed without the proposed exemption or abatement, the Chief Financial Officer shall provide an assessment of the project developer's documentation of:

(I) Efforts to seek alternate financing; and

(II) The factors that limit the developer's ability to obtain adequate financing.

(c) An act described in subsection (a) of this section shall not receive a Council hearing until the analysis described in subsection (b) of this section has been completed and provided to the Council and made available to the public.

(Sept. 14, 2011, D.C. Law 19-21, § 7142(b), 58 DCR 6226.)

**Legislative history of Law 19-21.** — Law 19-21, the “Fiscal Year 2012 Budget Support Act of 2011”, was introduced in Council and assigned Bill No. 19-203, which was referred to the Committee of the Whole. The Bill was adopted on first and second readings on May 25, 2011, and June 14, 2011, respectively. Signed by the Mayor on July 22, 2011, it was

assigned Act No. 19-98 and transmitted to both Houses of Congress for its review. D.C. Law 19-21 became effective on September 14, 2011.

**Short title.** — Short title: Section 7141 of D.C. Law 19-21 provided that subtitle O of title I of the act may be cited as “Exemptions and Abatements Information Requirements Act of 2011”.

## **§ 47-4702. Annual certification of continuing eligibility for exemptions and abatements from real property tax.**

(a) To the extent allowable by law, on or before April 1 of each year, beginning in 2012, and every year thereafter, any taxpayer receiving a real property tax exemption or abatement pursuant to Chapter 10 or Chapter 46 of this title, regardless of when the exemption or abatement was received, shall be required to file an annual report with the Office of the Chief Financial Officer providing:

(1) The lot and square and certifying that the real property has been used during the preceding real property tax year for the purpose for which the exemption or abatement was granted; and

(2) An update on the progress of the community benefits identified in the associated act granting the tax exemption or abatement.

(b) Failure to certify that the property was still eligible for the exemption or abatement based on the use of the property as required by subsection(a)(1)[d] of this section shall result in a termination of the exemption or abatement as of the beginning of the tax year in which the report is filed. This section shall not apply to taxpayers who are required to file an annual report pursuant to § 47-1007.

(Sept. 14, 2011, D.C. Law 19-21, § 7142(b), 58 DCR 6226.)

**Temporary Amendment of Section.** — Section 13(b) of D.C. Law 19-53 amended the section to read as follows:

“§ 47-4702. Annual certification of continuing eligibility for exemptions and abatements from real property tax.

“(a) To the extent allowable by law, on or before April 1 of each year, beginning in 2012, and every year thereafter, any nonprofit organization or business entity owning property receiving a real property tax exemption or abatement pursuant to Chapter 10 (other than property exempt under § 47-1002(1), (2), (3), or (21)) or Chapter 46 of this title, regardless of when the exemption or abatement was received, shall be required to file an annual report, under oath, with the Office of the Chief Financial Officer providing:

“(1) The lot and square, parcel, or reservation number of the real property and certifying that the real property has been used during the preceding real property tax year for the purpose for which the exemption or abatement was granted; and

“(2) A description of the community benefits provided pursuant to the provisions of the act granting the tax exemption or abatement, or an update on the progress of the community benefits identified in the associated act granting the tax exemption or abatement.

“(b) Failure to certify that the property was still eligible for the exemption or abatement

based on the use of the property as required by subsection (a)(1) of this section shall result in a termination of the exemption or abatement as of the beginning of the tax year in which the report is required to be filed. If the report is not filed timely, the Office of the Chief Financial Officer shall assess a penalty of \$250. This section shall not apply to a property owner that is required to file an annual report pursuant to § 47-1007.

“(c) Upon written application by the property owner filed on or before April 1 of any year, the Office of the Chief Financial Officer may grant a reasonable extension of time for filing the report required under subsection (a) of this section. For reasonable cause, the Office of the Chief Financial Officer may abate the penalty provided under subsection (b) of this section as well as the tax, penalty, and interest resulting from the failure to file the report timely.”.

Section 15(b) of D.C. Law 19-53 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary (90 day) amendment of section, see § 13(b) of Revised Fiscal Year 2012 Budget Support Technical Clarification Emergency Amendment Act of 2011 (D.C. Act 19-157, October 4, 2011, 58 DCR 8688).

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 47-4701.

## § 47-4703. Chief Financial Officer guidance.

For the preparation of the financial analysis required by § 47-4701(b)(4) and the annual certification required by § 47-4702, the Chief Financial Officer shall set forth guidance regarding the collection of information necessary to implement these sections.

(Sept. 14, 2011, D.C. Law 19-21, § 7142(b), 58 DCR 6226.)

**Temporary Addition of Section.** — Section 13(c) of D.C. Law 19-53 added a section to read as follows: “§ 47-4704. Applicability.” This chapter shall apply as of October 1, 2011.”.

Section 15(b) of D.C. Law 19-53 provided that the act shall expire after 225 days of its having taken effect.

**Emergency legislation.** — For temporary

(90 day) addition of sections, see §§ 13(c), 14 of Revised Fiscal Year 2012 Budget Support Technical Clarification Emergency Amendment Act of 2011 (D.C. Act 19-157, October 4, 2011, 58 DCR 8688).

**Legislative history of Law 19-21.** — For history of Law 19-21, see notes under § 47-4701.









































